

Prison Rape Elimination Act (PREA) Audit Report Community Confinement Facilities

Interim Final

Date of Report: November 23, 2019

Auditor Information

Name: **Michelle L. Burrows**

Email: **burrowsm66@aol.com**

Company Name:

Mailing Address: P. O. Box 802

City, State, Zip: Canal Winchester, OH 43110

Telephone: 614.519.8181

Date of Facility Visit: October 21-22, 2019

Agency Information

Name of Agency:

NY Department of Corrections and Community
Supervision

Governing Authority or Parent Agency (If Applicable):

Physical Address: 1220 Washington Ave

City, State, Zip: Albany, NY 12226-2050

Mailing Address:

City, State, Zip:

The Agency Is:

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

Agency Website with PREA Information: <http://www.doccs.ny.gov/PREA/PREAinfo.html>

Agency Chief Executive Officer

Name: Anthony J. Annucci, Acting Commissioner

Email: commissioner@doccs.ny.gov

Telephone: 518.457.8134

Agency-Wide PREA Coordinator

Name: Jason Effman, Associate Commissioner

Email: Jason.effman@doccs.ny.gov

Telephone: 518.457.3955

PREA Coordinator Reports to:

Acting Commissioner

Number of Compliance Managers who report to the PREA
Coordinator:

16

Facility Information

Name of Facility: Rochester Correctional Facility

Physical Address: 470 Ford Street

City, State, Zip: Rochester, NY 14608

Mailing Address (if different from above):

City, State, Zip:

The Facility Is:

Military

Private for Profit

Private not for Profit

Municipal

County

State

Federal

Facility Website with PREA Information: <http://www.doccs.ny.gov/PREA/PREAinfo.html>

Has the facility been accredited within the past 3 years? Yes No

If the facility has been accredited within the past 3 years, select the accrediting organization(s) – select all that apply (N/A if the facility has not been accredited within the past 3 years):

ACA

NCCHC

CALEA

Other (please name or describe):

N/A

If the facility has completed any internal or external audits other than those that resulted in accreditation, please describe:
NA

Facility Director

Name: Julie Wolcott

Email: Julie.wolcott@doccs.ny.gov

Telephone: 585.484.2280

Facility PREA Compliance Manager

Name: Elizabeth Maldonado

Email:
Elizabeth.maldonado@doccs.ny.gov

Telephone: 585.484.2280

Facility Health Service Administrator N/A

Name: Kathleen Kane

Email: Kathleen.kane@doccs.ny.gov

Telephone: 585.454.2280

Facility Characteristics

Designated Facility Capacity:

90

Current Population of Facility:	50	
Average daily population for the past 12 months:	58	
Has the facility been over capacity at any point in the past 12 months?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Which population(s) does the facility hold?	<input type="checkbox"/> Females <input checked="" type="checkbox"/> Males <input type="checkbox"/> Both Females and Males	
Age range of population:	18-61	
Average length of stay or time under supervision	98 days	
Facility security levels/resident custody levels	minimum	
Number of residents admitted to facility during the past 12 months	203	
Number of residents admitted to facility during the past 12 months whose length of stay in the facility was for 72 hours or more:	190	
Number of residents admitted to facility during the past 12 months whose length of stay in the facility was for 30 days or more:	145	
Does the audited facility hold residents for one or more other agencies (e.g. a State correctional agency, U.S. Marshals Service, Bureau of Prisons, U.S. Immigration and Customs Enforcement)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Select all other agencies for which the audited facility holds residents: Select all that apply (N/A if the audited facility does not hold residents for any other agency or agencies):	<input type="checkbox"/> Federal Bureau of Prisons <input type="checkbox"/> U.S. Marshals Service <input type="checkbox"/> U.S. Immigration and Customs Enforcement <input type="checkbox"/> Bureau of Indian Affairs <input type="checkbox"/> U.S. Military branch <input type="checkbox"/> State or Territorial correctional agency <input type="checkbox"/> County correctional or detention agency <input type="checkbox"/> Judicial district correctional or detention facility <input type="checkbox"/> City or municipal correctional or detention facility (e.g. police lockup or city jail) <input type="checkbox"/> Private corrections or detention provider <input type="checkbox"/> Other - please name or describe: Click or tap here to enter text. <input checked="" type="checkbox"/> N/A	
Number of staff currently employed by the facility who may have contact with residents:	26	
Number of staff hired by the facility during the past 12 months who may have contact with residents:	1	
Number of contracts in the past 12 months for services with contractors who may have contact with residents:	0	
Number of individual contractors who have contact with residents, currently authorized to enter the facility:	17	
Number of volunteers who have contact with residents, currently authorized to enter the facility:	9	

Physical Plant

<p>Number of buildings:</p> <p>Auditors should count all buildings that are part of the facility, whether residents are formally allowed to enter them or not. In situations where temporary structures have been erected (e.g., tents) the auditor should use their discretion to determine whether to include the structure in the overall count of buildings. As a general rule, if a temporary structure is regularly or routinely used to hold or house residents, or if the temporary structure is used to house or support operational functions for more than a short period of time (e.g., an emergency situation), it should be included in the overall count of buildings.</p>	2
<p>Number of resident housing units:</p> <p>Enter 0 if the facility does not have discrete housing units. DOJ PREA Working Group FAQ on the definition of a housing unit: How is a "housing unit" defined for the purposes of the PREA Standards? The question has been raised in particular as it relates to facilities that have adjacent or interconnected units. The most common concept of a housing unit is architectural. The generally agreed-upon definition is a space that is enclosed by physical barriers accessed through one or more doors of various types, including commercial-grade swing doors, steel sliding doors, interlocking sally port doors, etc. In addition to the primary entrance and exit, additional doors are often included to meet life safety codes. The unit contains sleeping space, sanitary facilities (including toilets, lavatories, and showers), and a dayroom or leisure space in differing configurations. Many facilities are designed with modules or pods clustered around a control room. This multiple-pod design provides the facility with certain staff efficiencies and economies of scale. At the same time, the design affords the flexibility to separately house residents of differing security levels, or who are grouped by some other operational or service scheme. Generally, the control room is enclosed by security glass, and in some cases, this allows residents to see into neighboring pods. However, observation from one unit to another is usually limited by angled site lines. In some cases, the facility has prevented this entirely by installing one-way glass. Both the architectural design and functional use of these multiple pods indicate that they are managed as distinct housing units.</p>	1
<p>Number of single resident cells, rooms, or other enclosures:</p>	0
<p>Number of multiple occupancy cells, rooms, or other enclosures:</p>	24
<p>Number of open bay/dorm housing units:</p>	0
<p>Does the facility have a video monitoring system, electronic surveillance system, or other monitoring technology (e.g. cameras, etc.)?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Exterior Cameras
<p>Has the facility installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology in the past 12 months?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Medical and Mental Health Services and Forensic Medical Exams

<p>Are medical services provided on-site?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>Are mental health services provided on-site?</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

<p>Where are sexual assault forensic medical exams provided? Select all that apply.</p>	<input type="checkbox"/> On-site <input checked="" type="checkbox"/> Local hospital/clinic--Strong Memorial Hospital <input type="checkbox"/> Rape Crisis Center <input type="checkbox"/> Other (please name or describe: Click or tap here to enter text.)
Investigations	
Criminal Investigations	
<p>Number of investigators employed by the agency and/or facility who are responsible for conducting CRIMINAL investigations into allegations of sexual abuse or sexual harassment:</p>	<p>31</p>
<p>When the facility received allegations of sexual abuse or sexual harassment (whether staff-on-resident or resident-on-resident), CRIMINAL INVESTIGATIONS are conducted by: Select all that apply.</p>	<input type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input checked="" type="checkbox"/> An external investigative entity
<p>Select all external entities responsible for CRIMINAL INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for criminal investigations)</p>	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input checked="" type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: <input type="checkbox"/> N/A
Administrative Investigations	
<p>Number of investigators employed by the agency and/or facility who are responsible for conducting ADMINISTRATIVE investigations into allegations of sexual abuse or sexual harassment?</p>	<p>31</p>
<p>When the facility receives allegations of sexual abuse or sexual harassment (whether staff-on-resident or resident-on-resident), ADMINISTRATIVE INVESTIGATIONS are conducted by: Select all that apply</p>	<input checked="" type="checkbox"/> Facility investigators <input checked="" type="checkbox"/> Agency investigators <input type="checkbox"/> An external investigative entity
<p>Select all external entities responsible for ADMINISTRATIVE INVESTIGATIONS: Select all that apply (N/A if no external entities are responsible for administrative investigations)</p>	<input type="checkbox"/> Local police department <input type="checkbox"/> Local sheriff's department <input type="checkbox"/> State police <input type="checkbox"/> A U.S. Department of Justice component <input type="checkbox"/> Other (please name or describe: <input checked="" type="checkbox"/> N/A

Audit Findings

Audit Narrative

The auditor's description of the audit methodology should include a detailed description of the following processes during the pre-onsite audit, onsite audit, and post-audit phases: documents and files reviewed, discussions and types of interviews conducted, number of days spent on-site, observations made during the site-review, and a detailed description of any follow-up work conducted during the post-audit phase. The narrative should describe the techniques the auditor used to sample documentation and select interviewees, and the auditor's process for the site review.

The PREA Audit of the Rochester Correctional Facility in Rochester, NY was conducted on October 21-22, 2019 by Michelle L. Burrows, Department of Justice (DOJ) certified PREA Auditor. Rochester Correctional Facility had a prior PREA audit conducted October 3-4, 2016 which all standards were found compliant. This auditor was assigned to conduct this audit by the American Correctional Association in August 2019. A thumb drive containing the PAQ was received from the facility on September 24, 2019 via mail by the ADS/PREA Compliance Manager for the Rochester Correctional Facility (RCF). The thumb drive contained the facility PAQ and supplemental documentation. The documentation received was organized, highlighted and labeled appropriately. Several emails were exchanged between the auditor and the PREA Compliance Manager prior to the audit and following the audit to obtain clarification. The PAQ itself contained numerous files embedded/hyperlinked within it, which made the process for reviewing documentation much easier for the Auditor. Documentation contained on the thumb drive consisted of the executive team chart with responsibilities of the facility Executive team; Pre-audit Questionnaire; documentation folders for each of the 41 PREA Standards containing primary and secondary documentation relating to the specific provision of each standard; DOCCS Web page home screen and PREA screens; DOH protocols; RCF FOM 009-Coordinated response plan to an incident of inmate sexual abuse; RCF-FOM-011 PREA Risk Screening. RCF Inmate Orientation Pamphlet; 115.215 Cross Gender Training; Several departmental directives pertaining to searches; ACA accreditation report for October 19-21, 2016 audit; training; and Directives 4027A and 4028A.

On October 3, 2019, the auditor sent an email to the PREA Compliance Manager requesting the following:

- 20-Random Employee background checks.
- 10-Contractor background checks.
- 20-Random Employee PREA training documentation.
- 10-Random Medical/Mental Health PREA specialized training documentation.
- 5-(Contractors) Medical/Mental Health PREA specialized training documentation.
- 20-Random Contractor/Volunteer PREA training documentation.
- Samples of written PREA Inmate education material, i.e. Inmate handbooks, posters, brochures.
- 20-Random Inmates that received PREA comprehensive education within 30 days of arrival.
- 20-Random Inmate Risk screenings for sexual victimization/abuse to include reassessment within 30 days of arrival.
- Completed sexual abuse & sexual harassment investigations; PAQ reported (during the past 12 months).
- Sample documentation for monitoring retaliation of sexual abuse & sexual harassment investigations over the past 12 months.
- All Sexual Assault Reviews during (from the past 12 month) for completed investigations of sexual abuse, excluding unfounded cases.

All documentation was received as requested. The background checks for employees and contractors are unable to be

copied and retained by the auditor as they contain confidential information. However, the auditor did review the actual files and found them to be compliant with completing background checks.

The Auditor met with the facility staff for a welcome dinner on Sunday, October 20, 2019 for an informal “meet and greet” and on Monday, October 21, 2019, at which time, we discussed the PREA audit process and what could be expected during the on-site portion of the audit, which included unimpeded access to the facility, documents and staff. Time spent at the facility was from 8:30 a.m. to 5:40 p.m. on day 1 and from 8:00 a.m. to 3:30 p.m. on day 2. The population on day 1 of the audit was 44 inmates and on day 2 was 49. After this briefing, I began with reviewing personnel files for (20) staff members. In the afternoon, the interviews of staff and inmates began. There are six (6) different PREA interview protocols consisting of the Agency Head, Facility Director, PREA Coordinator, Specialized Staff, Random Staff and inmates. These protocols are used by the auditor to interview staff and inmates as part of the audit. Answers from the interviews are part of the auditor’s compliance assessment. On day one of the audit, Rochester Correctional Facility reported a count of (44) inmates. The Auditor conducted (12) random inmate interviews; (10) informal inmate interviews; there was (3) Limited English Proficient inmates housed for interview and (2) were interviewed; there were (0) Transgender, Gay, Bisexual inmates housed at RCF; there were (0) Inmate who reported sexual abuse housed at RCF. There were (0) inmates who disclosed sexual victimization during risk screening. There is no segregation at RCF. All inmates interviewed demonstrated knowledge of the agency’s zero tolerance policy for sexual abuse, harassment & retaliation, and were able to identify how to report allegations of sexual abuse, harassment & retaliation.

The tour began around 11:00 a.m. and was completed at 11:30 a.m. The Auditor observed opposite gender staff announcing their presence upon entering inmate housing units and other areas that an inmate may be undressed, showering or using bathroom facilities. The auditor placed a telephone call to the 777-rape crisis center number at 11:25 a.m. on October 21, 2019, to test for accuracy. The call was answered within 30 seconds and I explained my reason for the call. They were very cordial and answered all questions. The Rochester Correctional Facility is a single building with 4 floors. There are 24 multiple occupancy cells, rooms, or enclosures. The standards require the auditor observe all areas of the audited facility paying attention to those areas of the facility that must be observed carefully in order to verify compliance with the standards. 1). Intake/reception/screening area. 2). All housing areas; 3). Health care area. 4). Recreation, cafeteria, and work areas, other programming areas (e.g., education or special education areas) 5). Areas that were renovated, modified, or expanded (if any). Rochester Correctional Facility has not undergone any significant renovations or modifications during the past 12 months.

Every area of the facility was observed as the standard requires, and the auditor observed inmates being supervised throughout the audit. Sight lines were closely examined as were the potential for blind spots. There was one area identified as having a blind spot with a mirror needing to be added (Storage Room). The issue was addressed immediately and in the records storeroom area, filing cabinets were creating a blind spot and they were moved immediately. RCF has 32 mirrors strategically placed throughout the facility to alleviate any blind spots. The facility has cameras located around the exterior portions of the facility, the yard, and laundry/holding area.

The Auditor observed signage posted in languages both in English and other than English throughout the facility explaining inmate rights to be free from sexual abuse and how to report allegations of sexual abuse and harassment. The Auditor conducted informal interviews with staff and inmates while touring; observed log-book entries for unannounced rounds being conducted by intermediate and higher-level facility staff; visually reviewed line of sight into bed areas and/or toilet and shower areas.

The Audit Posting was sent to the facility via email by this auditor on September 5, 2019. The facility acknowledged receiving the audit posting and the postings were placed throughout the facility. This auditor requested a photograph of the postings (which was received on Sept. 10, 2019 via email) with the date of posting and she observed the postings in all areas toured and they contained the information required by the DOJ. The dates of posting were September 9, 2019.

On October 22, 2019 the Auditor was accompanied by Jason Effman, Associate Commissioner/Agency PREA Coordinator, and Dawn Butler Correctional Facility Operations Specialist. We discussed the activities and logistics for the audit being conducted at the Rochester Correctional Facility.

Rochester Correctional Institution employed (26) staff at the time of the on-site portion of the audit. The Auditor formally interviewed (13) random staff. It should be noted that the random sampling size of staff interviews comprised of Tours 1, 2 and 3 employees, civilian and non-civilian. The auditor also conducted specialized interviews with the following:

- (1) Medical staff (onsite nurse);
- (1) Human resources staff (via phone as she works at Orleans Correctional as well);
- (1) Volunteer via phone;
- (2) OSI Investigators;
- (1) Staff who perform screening for risk of victimization and abusiveness;
- (2) Staff members on the incident review team;
- (1) staff member in charge with monitoring retaliation;
- (7) staff first responders, both security and non-security staff interviewed;
- (2) Intake staff members
- (1) Superintendent;
- (1) PREA Compliance Manager;
- (1) PREA Point Person;
- (2) Incident Review Team members.

All Specialized Staff interviews were conducted in accordance with the PREA Guidelines for Auditors: Specialized Staff Interviews. The interviews were held in the conference room in the basement of the facility and there was complete privacy/confidentiality to conduct these interviews.

The Victim Advocacy Program RESTORE Sexual Assault Services Executive Director was interviewed via telephone on October 22, 2019. This interview also covered Groveland CF as RESTORE covers both facilities. The Agency Head interview was previously conducted by a certified DOJ PREA auditor and accepted by this auditor. The PREA Coordinator was onsite during this audit and was interviewed by this auditor.

During the past 12 months, the Rochester Correctional Facility had (0) allegations of reported sexual abuse and sexual harassment. The Auditor conducted a formal interview with a Senior-Investigator and Investigator with the Office of Special Investigations (OSI) Sex Crimes Division on October 22, 2019 at Rochester Correctional Facility which also included the interview for Groveland CF. The Auditor determined PREA investigations are being completed per NYSDOCCS policy and procedures and are compliant with all applicable PREA standards. The investigators brought cases for Groveland CF for my review in order to determine process of completion of investigations since RCF had none.

After the on-site audit was completed, the auditor conducted an exit-briefing with members of the Executive staff. The Auditor could not give an outcome of the audit. The Auditor thanked the facility staff and commended them on their hard work and commitment to the Prison Rape Elimination Act. During the report writing period the Auditor reviewed additional policies & procedures and supplementary documentation that was received during the audit. I also requested some additional documentation post-audit to clarify some issues.

Facility Characteristics

The auditor's description of the audited facility should include details about the facility type, demographics and size of the inmate, resident or detainee population, numbers and type of staff positions, configuration and layout of the facility, numbers of housing units, description of housing units including any special housing units, a description of programs and services, including food service and recreation. The auditor should describe how these details are relevant to PREA implementation and compliance.

The Rochester Correctional Facility is located on 1.2 acres at 470 Fort Street, Rochester New York 14608. The facility is classified as a Work Release facility and a residential treatment facility located in Rochester New York in Monroe County. The facility houses male offenders 18 years or older. The facility opened in 1973. The four-story brick building was constructed in 1906 as a convent for the Immaculate Conception Church of Rochester. The property was acquired in 1965 from a group home operated by the Division for Youth (DFY). After the DFY center closed in 1972, the property was transferred to the Department of Corrections.

Inmates are assigned to one of two "continuous temporary release" classifications: work release and day reporting. The primary focus of Rochester Correctional Facility is to involve inmates in community life through structured, closely supervised Temporary Release programs. These are intended to assist inmates in making a successful adjustment following their release. Short-term Temporary Release programs include Leave of Absence Program, Educational Release, Furlough Program, Community Service Leave Program and Substance Abuse Program.

The facility capacity is 90 inmates/residents who sleep two or three nights at the facility, sharing the 70 beds on a rotating squad system and spending the other nights at home on furloughs. As they near release on parole, the inmates usually graduate to day reporting status and live at home full time, reporting to the local New York State Parole Office as required for drug testing and to review their adjustment and progress under the higher day-reporting level of freedom and responsibility.

The main level of the facility is occupied by offices of the Superintendent, Assistant Deputy Superintendent, Head Account Clerk, Records Office, Offender Rehabilitation Coordinator, Administrative support, the chart office and the kitchen and dining facilities. The Chart office serves as the facility's control center and monitors the front entrance and movement in and out of the facility. The second and third stories have a total of 24 rooms. Most beds are two-man bunk style with a range of 2-6 beds per room, allowing 15-38.5 square feet of unencumbered space per occupant. Both floors have four showers, two toilets, one urinal and five sinks. The basement contains a laundry room, a holding cell, storage space and a boiler room. The Offender Rehabilitation Coordinator has their offices located on the first floor as well as the two parole officer offices. There are day reporting and drug testing offices in the basement.

A two-story maintenance garage was constructed on the property in 2000. The main level of the garage serves as storage for lawn tractors, snow blowers, FCTC cabinets and tool storage. The upper level has offices for the Fire and Safety officer and the Maintenance supervisor. There is also a workshop area and additional storage for tools. There is an outside covered weight room connected to the garage structure. The facility does not have perimeter security walls or fences, razor ribbon, barred windows or yard towers. The inmate yard is surrounded by an eight-foot-tall wooden fence. There are security cameras (CCTV System) that monitor the yard, parking lot and outside grounds.

Summary of Audit Findings

During the tour of the facility, the storeroom had a blind spot behind some shelving/storage within the room. The staff immediately had a mirror installed and the blind spot was eliminated. During interviews with intake officers, they both relayed that there are times when they receive a large draft (intake), they would interview two inmates (one per officer)

in the same room, asking them the PREA related questions. The Superintendent was informed of this issue and after looking into the situation further, it was determined that a misunderstanding took place as they interview two inmates, one per officer and in separate rooms. Both CCCA's wrote a statement stating such. They ask the PREA questions of the inmates, one-on-one, in private.

The auditor discovered that some information was missing from the employee files that showed the staff had background checks conducted. After discussion with AC Effman, he was able to retrieve the information needed to confirm the background checks had been conducted as required and this issue has been addressed statewide.

Standards Exceeded

Number of Standards Exceeded: 6

List of Standards Exceeded: 115.211; 115.216; 115.217; 115.234; 115.253; 115.271

Standards Met

Number of Standards Met: 35

115.212; 115.213; 115.215; 115.218; 115.221; 115.222; 115.231; 115.232; 115.233; 115.235; 115.241; 115.242; 115.251; 115.252; 115.254; 115.261; 115.262; 115.263; 115.264; 115.265; 115.266; 115.267; 115.272; 115.273; 115.276; 115.277; 115.278; 115.282; 115.283; 115.286; 115.287; 115.288; 115.289; 115.401; 115.403

Standards Not Met

Number of Standards Not Met: 0

List of Standards Not Met:

PREVENTION PLANNING

Standard 115.211: Zero tolerance of sexual abuse and sexual harassment; PREA coordinator

All Yes/No Questions Must Be Answered by The Auditor to Complete the Report

115.211 (a)

- Does the agency have a written policy mandating zero tolerance toward all forms of sexual abuse and sexual harassment? Yes No
- Does the written policy outline the agency's approach to preventing, detecting, and responding to sexual abuse and sexual harassment? Yes No

115.211 (b)

- Has the agency employed or designated an agency-wide PREA Coordinator? Yes No
- Is the PREA Coordinator position in the upper-level of the agency hierarchy? Yes No
- Does the PREA Coordinator have sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

New York State Department of Corrections and Community Supervision has two written policies mandating zero tolerance toward all forms of sexual abuse and sexual harassment (DIR4027A, Sexual Abuse Prevention & Intervention – Inmate on Inmates and DIR4028A, Sexual Abuse Prevention & Intervention – Staff on Inmate/Staff on Parolee). These two policies collectively outline the agency's approach to preventing, detecting, and

responding to sexual abuse, sexual harassment, and sexual threats. Policies state sexual abuse and sexual harassment violate Department rules and threaten security and that all allegations of sexual abuse, sexual harassment, or retaliation for reporting such an incident of participating in an investigation will be thoroughly investigated. Policy states that perpetrators will be dealt with severely through discipline or prosecution to the fullest extent permitted by law. Policy provides definitions consistent with those found in Prison Rape Elimination Act of 2003, (PREA), 42 U.S.C. §15609. Under § 130.05 of New York State Penal Law, it is a crime for staff to engage in a sexual act with an inmate or parolee. Strategies for prevention and response include training, a duty to report, requirements, and enforcement of discipline and prosecution for those who offend.

Jason Effman currently serves as Associate Commissioner/PREA Coordinator, as designated through memorandum dated April 23, 2013 from then Commissioner Brian Fischer. The PREA Coordinator is an upper level position in the agency hierarchy and reports directly to the Agency Head as indicated by New York State Department of Corrections and Community Supervision Central Office Organization Chart and interviews with PREA Coordinator and Agency Head. The Associate Commissioner/PREA Coordinator is a dedicated position and through interview with Associate Commissioner Effman, it was confirmed that his time is almost exclusively devoted to overseeing the agency's efforts to develop, implement and oversee agency efforts to comply with PREA standards in all his facilities and he has sufficient time and authority to do so. He further manages this through regular and direct coordination with sixteen (16) Assistant Deputy Superintendent/PREA Compliance Managers who are instrumental in PREA coordination and execution at the facility level. During his interview, Acting Commissioner Anthony J. Annucci articulated complete support of efforts by Associate Commissioner Effman, the Zero Tolerance mandate throughout the agency, and a continued commitment for agency compliance.

Based on auditor's analysis of related policy, review of executive memorandums, review of agency and facility organization charts, and formal staff interviews it is determined that Rochester Correctional Facility satisfies all elements required of this standard. In addition, the designation of a PREA Point Person for every facility to assist the ADS PREA Compliance Managers. DOCCS goes above and beyond to alleviate Prison Rape. They have established several ways to report, who they can report to, victim services, prosecuting cases, establishing a sex crimes unit, etc. Therefore, this auditor finds they exceed this standard as they have taken a pro-active approach and have established a Sexual Abuse Prevention and Education Office.

Standard 115.212: Contracting with other entities for the confinement of residents

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.212 (a)

- If this agency is public and it contracts for the confinement of its residents with private agencies or other entities including other government agencies, has the agency included the entity's obligation to comply with the PREA standards in any new contract or contract renewal signed on or after August 20, 2012? (N/A if the agency does not contract with private agencies or other entities for the confinement of residents.) Yes No NA

115.212 (b)

- Does any new contract or contract renewal signed on or after August 20, 2012 provide for agency contract monitoring to ensure that the contractor is complying with the PREA standards? (N/A if the agency does not contract with private agencies or other entities for the confinement of residents.) Yes No NA

115.212 (c)

- If the agency has entered into a contract with an entity that fails to comply with the PREA standards, did the agency do so only in emergency circumstances after making all reasonable attempts to find a PREA compliant private agency or other entity to confine residents? (N/A if the agency has not entered into a contract with an entity that fails to comply with the PREA standards.) Yes No NA
- In such a case, does the agency document its unsuccessful attempts to find an entity in compliance with the standards? (N/A if the agency has not entered into a contract with an entity that fails to comply with the PREA standards.) Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

New York State Correction Law section 121 provides that the private operation or management of a correctional facility for housing state or local inmates or the private ownership or operation of a facility for the incarceration of other state's inmates is prohibited. Thus, no private prisons are operated on behalf of the Agency.

NYDOCCS has entered into agreements with private organizations for 14 Community Based Residential Programs to provide up to 4 months of housing and treatment for selected Parolees. These contracts were effective starting 5/1/17 (7 programs), 10/1/17 (6 programs) and July 23, 2018 (1 program). Each contract permits contract monitoring and requires the Program to achieve and maintain PREA Compliance, and to arrange for PREA Audits

on a schedule set in consultation with the DOCCS Agency-Wide PREA Coordinator. This standard does not apply to Rochester Correctional Facility as they do not contract directly with private agencies or other entities.

Standard 115.213: Supervision and monitoring

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.213 (a)

- Does the facility have a documented staffing plan that provides for adequate levels of staffing and, where applicable, video monitoring, to protect residents against sexual abuse? Yes No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The physical layout of each facility? Yes No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The composition of the resident population? Yes No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: The prevalence of substantiated and unsubstantiated incidents of sexual abuse? Yes No
- In calculating adequate staffing levels and determining the need for video monitoring, does the staffing plan take into consideration: Any other relevant factors? Yes No

115.213 (b)

- In circumstances where the staffing plan is not complied with, does the facility document and justify all deviations from the plan? (N/A if no deviations from staffing plan.)
 Yes No NA

115.213 (c)

- In the past 12 months, has the facility assessed, determined, and documented whether adjustments are needed to the staffing plan established pursuant to paragraph (a) of this section?
 Yes No
- In the past 12 months, has the facility assessed, determined, and documented whether adjustments are needed to prevailing staffing patterns? Yes No
- In the past 12 months, has the facility assessed, determined, and documented whether adjustments are needed to the facility's deployment of video monitoring systems and other monitoring technologies? Yes No

- In the past 12 months, has the facility assessed, determined, and documented whether adjustments are needed to the resources the facility has available to commit to ensure adequate staffing levels? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

NYS DOCCS ensures that each facility has developed and documented a staffing plan that provides for adequate levels of staffing. A comprehensive and extensive staffing plan is developed and established through the New York State Department of Corrections and Community Supervision Security Information Staffing Unit. The staffing plan for Rochester Correctional Facility is predicated on 90 inmates. The average daily number of inmates since the last PREA audit is 58 inmates. The current plan calls for 17 security positions, which includes 1 Community Correctional Center Assistant (CCCA) that is under special assignment to the Office of Special Investigations (OSI). The plan takes into consideration staff utilization, post closures, additional services usage, preplanning practices, leave policies and schedules, local agreements, supervisory charts, and job descriptions in addition to each of the categories required by this standard to provide for adequate levels of staffing. Information obtained through personal review of documents noted, interview with the Superintendent, PREA Coordinator, Compliance Manager, and Deputy Superintendent. Rochester Correctional Facility does not use video monitoring in the facility except for a holding cell and exterior portions of the facility for security purposes.

Circumstances where the staffing plan (Plot Plan) is not complied with is documented directly into the database in the Post Closure Report using codes from the Post Closure Key. Any deviations from the staffing plan are documented and justified. Auditor's review of these reports and interviews with Superintendent and Assistant Deputy Supt. indicate deviations from staffing plan are consistently and thoroughly documented.

The most recent staffing plan review was conducted by Matthew Schramm, who was the Acting Superintendent at the time of review and is dated August 22, 2019, as evidenced by memorandum reference subject Rochester Correctional Facility Annual Supervision and Monitoring Plan Review dated August 22, 2019. The review concluded that the facility's current staffing plan and monitoring infrastructure is adequate, and that the available staffing resources (17 security positions) are enough to meet the staffing plan. As indicated in the referenced memorandum, the review included generally accepted detention and correctional practices, any judicial finding

of inadequacy (none), any findings of inadequacy from federal investigative agencies (none), findings of inadequacy from internal or external oversight bodies (none), all components of the physical plant, composition of inmate population, number and placement of supervisory staff, institution programs occurring on a particular shift, applicable State or local laws, regulations or standards, (Agency Directives & ACA), prevalence of substantiated and unsubstantiated incidents of sexual abuse. The annual review is a collaborative effort between the facility superintendent, compliance manager, and PREA Coordinator. Information verified through personal observation, review of documents cited, interviews with Superintendent, PREA Coordinator, and Compliance Manager.

Standard 115.215: Limits to cross-gender viewing and searches

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.215 (a)

- Does the facility always refrain from conducting any cross-gender strip or cross-gender visual body cavity searches, except in exigent circumstances or by medical practitioners?
 Yes No

115.215 (b)

- Does the facility always refrain from conducting cross-gender pat-down searches of female residents, except in exigent circumstances? (N/A if the facility does not have female residents.)
 Yes No NA
- Does the facility always refrain from restricting female residents' access to regularly available programming or other outside opportunities in order to comply with this provision? (N/A if the facility does not have female residents.) Yes No NA

115.215 (c)

- Does the facility document all cross-gender strip searches and cross-gender visual body cavity searches? Yes No
- Does the facility document all cross-gender pat-down searches of female residents? (N/A if the facility does not have female residents). Yes No NA

115.215 (d)

- Does the facility have policies that enable residents to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks? Yes No

- Does the facility have procedures that enables residents to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks? Yes No
- Does the facility require staff of the opposite gender to announce their presence when entering an area where residents are likely to be showering, performing bodily functions, or changing clothing? Yes No

115.215 (e)

- Does the facility always refrain from searching or physically examining transgender or intersex residents for the sole purpose of determining the resident's genital status? Yes No
- If a resident's genital status is unknown, does the facility determine genital status during conversations with the resident, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner? Yes No

115.215 (f)

- Does the facility/agency train security staff in how to conduct cross-gender pat down searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs? Yes No
- Does the facility/agency train security staff in how to conduct searches of transgender and intersex residents in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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DOCCS/Rochester Correctional Facility policy prohibits cross-gender strip searches or cross gender visual body cavity searches. All strip searches are authorized by a supervisor and documented. The facility has implemented policies and procedures that enable inmates to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their buttocks, or genitalia, except when such viewing is incidental to routine checks. Staff is trained to conduct cross-gender pat-down searches, in case of an emergency, and searches of transgender and intersex inmates using the least intrusive method possible. Staff interviews showed a thorough understanding of the inmate search policy. All security staff receive annual training, shift briefing training in conjunction with the PREA video training, which covers policy and procedures concerning searches.

As observed by the auditor, staff are knowledgeable and professional in conducting searches. 100% of the security staff have received the appropriate training which is documented and on the PAQ. During the tour of the facility the Auditor observed staff announcements made via the intercom system prior to entering areas where inmates were likely to be showering, performing bodily functions, or changing clothing. Rochester CF does not search or physically examine inmates for the sole purpose of determining the inmate's genital status. If the inmate's genital status is unknown, it may be determined during conversations with the inmate, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.

The Auditor received secondary documentation of staff training records submitted with the PAQ and reviewed additional training records and lesson plans on-site. Through interviews with staff and inmates it was determined proper cross-gender pat-down searches, and searches of transgender and inter-sex inmates are conducted in accordance with policy & procedures.

Rochester CF has not conducted any cross-gender strip searches or cross-gender visual body cavity searches in the past 12 months. Rochester CF is an all-male facility, therefore 115.215(b) and parts of(c) are N/A as there are no female inmates housed at RCF. This is outlined in NY DOCCS DIR 2230, Guidelines for Assignment of Male and Female Correctional Officers dated 02/21/2019; HSPM 1.37 Body Cavity Search 12/29/16 & DIR4001, Facility Administrative Coverage & Supervisory Rounds dated 4/25/19. Other directives and information relied upon to find compliance are: Memo: Facility Prison Rape Elimination Act (PREA) Point Person, RE: Inmate allowed to shower separately; HSPM 1.19 Health Appraisal dated 6/11/19; and NYS DOCCS DIR 4910, Control and Search for Contraband dated 6/28/19.

Standard 115.216: Residents with disabilities and residents who are limited English proficient

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.216 (a)

- Does the agency take appropriate steps to ensure that residents with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Residents who are deaf or hard of hearing? Yes No
- Does the agency take appropriate steps to ensure that residents with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Residents who are blind or have low vision? Yes No
- Does the agency take appropriate steps to ensure that residents with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Residents who have intellectual disabilities? Yes No
- Does the agency take appropriate steps to ensure that residents with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Residents who have psychiatric disabilities? Yes No
- Does the agency take appropriate steps to ensure that residents with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Residents who have speech disabilities? Yes No
- Does the agency take appropriate steps to ensure that residents with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment, including: Other? (if "other," please explain in overall determination notes.) Yes No
- Do such steps include, when necessary, ensuring effective communication with residents who are deaf or hard of hearing? Yes No
- Do such steps include, when necessary, providing access to interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary? Yes No

- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities including residents who: Have intellectual disabilities? Yes No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities including residents who: Have limited reading skills? Yes No
- Does the agency ensure that written materials are provided in formats or through methods that ensure effective communication with residents with disabilities including residents who: Are blind or have low vision? Yes No

115.216 (b)

- Does the agency take reasonable steps to ensure meaningful access to all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment to residents who are limited English proficient? Yes No
- Do these steps include providing interpreters who can interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary? Yes No

115.216 (c)

- Does the agency always refrain from relying on resident interpreters, resident readers, or other types of resident assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the resident's safety, the performance of first-response duties under §115.264, or the investigation of the resident's allegations? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

Rochester Correctional Facility takes steps and has a policy which ensures inmates with disabilities have an equal opportunity to participate in or benefit from all aspects of the agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Rochester provides inmates with materials which are available in English and Spanish as well as several other languages (Chinese, Korean, Russian, etc.). They also have access to a translation hotline. PREA posters and educational materials are provided in English and Spanish. Inmates who are deaf are provided PREA information through written form, i.e. PREA guidelines, Education Brochures and Videos with subtitles. Inmates who are blind or sight impaired are provided an audio tracks in English, Spanish and six additional languages. PREA Videos are available with subtitles. Rochester does not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise an inmate's safety, the performance of first-responder duties, or the investigation of an inmate's allegations.

The Auditor observed throughout the facility written materials, posters, pamphlets all in multiple languages advising inmates of their rights to be free from sexual abuse, sexual harassment and retaliation and how to report such. There were three inmates with limited English speaking (Spanish) and a staff interpreter was utilized to interview two of them.

The Auditor conducted random staff and inmate interviews and interviewed the (Intake) Officers as well as reviewed the following policies/procedures and supporting documentation provided with the PAQ and on-site: NYDOCCS DIR 2612, Inmates with Sensorial Disabilities dated 12/27/18; DOCCS DIR 4490, Cultural and Language Access Services dated 8/1/19; Associate Commissioner Memo – RE: "Ending Sexual Abuse Behind the Walls: An Orientation" DVD; and Brochures in English, Haitian Creole, Italian, Polish, Russian, Simplified Chinese, Spanish and Korean. Auditor's analysis of documented interpretive services, contracts, interviews with staff and inmates conclude Rochester Correctional Facility meets provisions of this standard. In addition, the Agency's efforts to have readily available the PREA education video in six (6) languages (audio & captions) beyond English and Spanish is enough in this auditor's evaluation to exceed requirements of this standard.

Standard 115.217: Hiring and promotion decisions

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.217 (a)

- Does the agency prohibit the hiring or promotion of anyone who may have contact with residents who: Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)? Yes No

- Does the agency prohibit the hiring or promotion of anyone who may have contact with residents who: Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse? Yes No
- Does the agency prohibit the hiring or promotion of anyone who may have contact with residents who: Has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? Yes No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with residents who: Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997)? Yes No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with residents who: Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse? Yes No
- Does the agency prohibit the enlistment of services of any contractor who may have contact with residents who: Has been civilly or administratively adjudicated to have engaged in the activity described in the question immediately above? Yes No

115.217 (b)

- Does the agency consider any incidents of sexual harassment in determining whether to hire or promote anyone who may have contact with residents? Yes No
- Does the agency consider any incidents of sexual harassment in determining whether to enlist the services of any contractor, who may have contact with residents? Yes No

115.217 (c)

- Before hiring new employees who may have contact with residents, does the agency: Perform a criminal background records check? Yes No
- Before hiring new employees who may have contact with residents, does the agency, consistent with Federal State, and local law: Make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse? Yes No

115.217 (d)

- Does the agency perform a criminal background records check before enlisting the services of any contractor who may have contact with residents? Yes No

115.217 (e)

- Does the agency either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with residents or have in place a system for otherwise capturing such information for current employees? Yes No

115.217 (f)

- Does the agency ask all applicants and employees who may have contact with residents directly about previous misconduct described in paragraph (a) of this section in written applications or interviews for hiring or promotions? Yes No
- Does the agency ask all applicants and employees who may have contact with residents directly about previous misconduct described in paragraph (a) of this section in any interviews or written self-evaluations conducted as part of reviews of current employees? Yes No
- Does the agency impose upon employees a continuing affirmative duty to disclose any such misconduct? Yes No

115.217 (g)

- Does the agency consider material omissions regarding such misconduct, or the provision of materially false information, grounds for termination? Yes No

115.217 (h)

- Does the agency provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work? (N/A if providing information on substantiated allegations of sexual abuse or sexual harassment involving a former employee is prohibited by law.) Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

NYDOCCS prohibits hiring and/or promoting anyone who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution. DOCCS completes criminal background checks on all new employees, contract staff and volunteers before they can have contact with inmates. DOCCS policy requires that all new employees be asked whether they have engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution; been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse or been civilly or administratively adjudicated to have engaged in the activity described above.

DOCCS has an agreement with the New York State Division of Criminal Justice Services to notify the agency of any arrest of an employee, contract staff or volunteer unless the Division is prohibited by State statute to do so. Additionally, policy requires staff to report any criminal charges immediately. Rochester CF hired (1) new employee and had (1) transfer within the past 12 months. In the past 12 months, the number of contracts for services where criminal background record checks were conducted on all staff covered in the contract who might have contact with inmates, Rochester CF had (0). Through interviews with staff and review of employee personnel records (20) hire packets, all randomly selected by auditor, there was some inconsistency with the documentation maintained in the files, as referenced in the narrative. A discussion was held with AC Effman regarding documents that should be maintained to prove the background checks were being conducted. The process was changed, and a copy of the email will be placed in the personnel file as proof. After review of related Agency policy and emails from EIU both clearing employees for hire and prohibiting employees for hire, it is evident Rochester Correctional Facility does not hire, promote staff or contractors who have engaged in sexual abuse in Prisons, Jails, Lockups or other confinement facilities.

The auditor relied on random staff interviews, Human Resources Manager interview, Investigative Staff interview, Superintendent Interview and the following policies/procedures and supporting documentation: DOCCS DIR 2216, Fingerprinting/Criminal History Inquiry New Employees and Contractors; NYS Department of Correctional Services Personal Procedure Manual 406A Recruitment Process; Directive 2112, Report of Criminal Charge; Directive 2012, Release of Employee Personnel and Payroll Information; Memo: from Darren Ayotte, Director of Personnel, RE: Personnel Procedure 407 – Civilian Promotions, Personal Procedure Manual 407A – Security Promotions; RE: Prison Rape Elimination Act (PREA)-Background Checks Appendix A.

Interviews conducted with Acting Commissioner, Associate Commissioner/PREA Coordinator, Superintendent, Human Resources Manager combined with the body of documents reviewed validate the protocols identified in above narrative are followed at Rochester Correctional Facility finding compliance with this standard. The auditor needs to note that evaluation of the protocols and procedures of the Agency's on-going, real-time system in place for notification of any criminal activity and that criminal background checks are run on all volunteers where it is not required by this standard, RCF exceeds this standard.

Standard 115.218: Upgrades to facilities and technologies

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.218 (a)

- If the agency designed or acquired any new facility or planned any substantial expansion or modification of existing facilities, did the agency consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect residents from sexual abuse? (N/A if agency/facility has not acquired a new facility or made a substantial expansion to existing facilities since August 20, 2012, or since the last PREA audit, whichever is later.)
 Yes No NA

115.218 (b)

- If the agency installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology, did the agency consider how such technology may enhance the agency's ability to protect residents from sexual abuse? (N/A if agency/facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since August 20, 2012, or since the last PREA audit, whichever is later.)
 Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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Rochester Correctional Facility has not acquired a new facility or made a substantial expansion to the facility since the last PREA audit. However, DIR 3053, Alterations/Construction Request establishes policy that requires consideration of the effect of the design, acquisition, or modification upon the agency's ability to protect inmates from sexual abuse when designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities. Form 1612, Alterations/Construction Request, contains section for the

Superintendent to indicate if alteration/modifications will enhance, have no impact, or have negative impact on the facility's ability to protect inmates from sexual abuse.

Rochester Correctional Facility has not installed or updated a video monitoring system, electronic surveillance system, or other monitoring technology since their last PREA audit. However, DIR3053, Alterations/Construction Request establishes policy that requires consideration of how such technology may enhance the agency's ability to protect inmates from sexual abuse when installing or updating electronic monitoring technology. Review of the Staffing Plan indicates of use of electronic surveillance is a consideration when the annual reviews are conducted.

Compliance with this standard was determined based on policy review and interviews with Acting Commissioner, Superintendent and PREA Compliance Manager. No new construction has been conducted since the last PREA audit. Rochester Correctional Facility meets provisions of this standard.

RESPONSIVE PLANNING

Standard 115.221: Evidence protocol and forensic medical examinations

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.221 (a)

- If the agency is responsible for investigating allegations of sexual abuse, does the agency follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)
 Yes No NA

115.221 (b)

- Is this protocol developmentally appropriate for youth where applicable? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.) Yes No NA
- Is this protocol, as appropriate, adapted from or otherwise based on the most recent edition of the U.S. Department of Justice's Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents," or similarly comprehensive and authoritative protocols developed after 2011? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations.)
 Yes No NA

115.221 (c)

- Does the agency offer all residents who experience sexual abuse access to forensic medical examinations, whether on-site or at an outside facility, without financial cost, where evidentiarily or medically appropriate? Yes No
- Are such examinations performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible? Yes No
- If SAFEs or SANEs cannot be made available, is the examination performed by other qualified medical practitioners (they must have been specifically trained to conduct sexual assault forensic exams)? Yes No
- Has the agency documented its efforts to provide SAFEs or SANEs? Yes No

115.221 (d)

- Does the agency attempt to make available to the victim a victim advocate from a rape crisis center? Yes No
- If a rape crisis center is not available to provide victim advocate services, does the agency make available to provide these services a qualified staff member from a community-based organization, or a qualified agency staff member? (N/A if agency *a/ways* makes a victim advocate from a rape crisis center available to victims.) Yes No NA
- Has the agency documented its efforts to secure services from rape crisis centers? Yes No

115.221 (e)

- As requested by the victim, does the victim advocate, qualified agency staff member, or qualified community-based organization staff member accompany and support the victim through the forensic medical examination process and investigatory interviews? Yes No
- As requested by the victim, does this person provide emotional support, crisis intervention, information, and referrals? Yes No

115.221 (f)

- If the agency itself is not responsible for investigating allegations of sexual abuse, has the agency requested that the investigating agency follow the requirements of paragraphs (a) through (e) of this section? (N/A if the agency/facility is responsible for conducting criminal AND administrative sexual abuse investigations.) Yes No NA

115.221 (g)

- Auditor is not required to audit this provision.

115.221 (h)

- If the agency uses a qualified agency staff member or a qualified community-based staff member for the purposes of this section, has the individual been screened for appropriateness to serve in this role and received education concerning sexual assault and forensic examination issues in general? (N/A if agency *always* makes a victim advocate from a rape crisis center available to victims.) Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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NYDOCCS is responsible for criminal and administrative investigations. The Department's Office of Special Investigations Sex Crimes Division conducts the investigations. The Department works with the New York State Police Bureau of Criminal Investigation to investigate reports of Staff-on-Inmate and Inmate-on-Inmate sexual assault that may involve criminal charges. Directives for Sexual Abuse Reporting and Investigation and the Inmate on Inmate Sexual Abuse Dispatch and Operational Guidelines outline evidence protocols for administrative investigations and criminal prosecutions. NYDOCCS utilizes community hospitals that follow the National Protocol for Sexual Assault Medical Forensic Examinations for evidence protocols and forensic medical examinations.

Operational Guidelines-Office of Special Investigations (OSI) Immediate Dispatch, Inmate on Inmate/Staff on Inmate; outlines the agency's approach to the extent the agency is responsible for investigating allegations of sexual abuse, the agency follows a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. Interviews were conducted with investigators from the Office of Special Investigations on October 22, 2019 at Rochester CF. Interviews confirmed that PREA investigations are completed as outlined by the standards and both investigators were very

knowledgeable of the investigation process, evidence collection protocols, and the use of the Sexual Abuse Checklist. Emergency health care as well as forensic examinations by SANE/SAFE staff are provided at an outside facility with no cost to the inmate. An advocate is provided to the inmate upon request to provide emotional support through the forensic medical examination and investigation interviews. There were no forensic medical exams performed by SANE/SAFE staff during the last twelve months.

The Auditor finds compliance with this standard after interviews with medical staff, OSI investigators, PREA Compliance Manager and review of the following documentation: Directive 4027B – Sexual Abuse Reporting & Investigation Inmate – on – Inmate; HSPM 1.60 – Sexual Assault Operational Guidelines – Office of Special Investigations, Immediate Dispatch: Inmate – on – Inmate/Staff – on – Inmate; Department of Health Protocol for the Acute Care of Adult Patient Reporting Sexual Assault; New York State Police Superintendent Letter - RE: Implementation of the PREA Standards; and Power Point Presentation Excerpt: PREA Specialized Training: Investigations.

Standard 115.222: Policies to ensure referrals of allegations for investigations

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.222 (a)

- Does the agency ensure an administrative or criminal investigation is completed for all allegations of sexual abuse? Yes No
- Does the agency ensure an administrative or criminal investigation is completed for all allegations of sexual harassment? Yes No

115.222 (b)

- Does the agency have a policy and practice in place to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with the legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior? Yes No
- Has the agency published such policy on its website or, if it does not have one, made the policy available through other means? Yes No
- Does the agency document all such referrals? Yes No

115.222 (c)

- If a separate entity is responsible for conducting criminal investigations, does the policy describe the responsibilities of both the agency and the investigating entity? (N/A if the agency/facility is responsible for conducting criminal investigations. See 115.221(a).) Yes No NA

115.222 (d)

- Auditor is not required to audit this provision.

115.222 (e)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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NYDOCCS works with the New York State Police Bureau of Criminal Investigation to investigate reports of Staff – on–Inmate and Inmate-on-Inmate sexual assault that may involve criminal charges. All allegations are investigated and reported with findings as required by this standard. DOCCS Directives, Sexual Abuse Reporting and Investigations Inmate on Inmate, Sexual Abuse Reporting and Investigations Staff on Inmate and Office of Sexual Investigations Sex Crimes Unit, require that all allegations of sexual abuse and sexual harassment be referred for investigation. The Office of Special Investigations Sex Crimes Division conducts these investigations.

Documentation of the administrative investigation is maintained by the Office of Special Investigations Sex Crimes Division and outcomes are shared with the Superintendent. Interviews conducted with investigators from the Office of Special Investigations demonstrated a better understanding of their responsibilities in an investigation. The roles and responsibilities are clearly defined in policy. The agency's policy is available on the agency's website. Rochester Correctional Facility had (0) reported cases of sexual abuse or harassment during the auditing period.

Interviews were conducted with investigators from the Office of Special Investigations on October 22, 2019 and the interviews covered both Rochester CF and Groveland CF as the investigator covers both facilities. Interviews confirmed that PREA investigations are completed as outlined by the standards and both investigators were very knowledgeable of the investigation process and the use of the Sexual Abuse Checklist. The investigators brought investigations from Groveland as there were none to review for Rochester CF. The investigations reviewed were thorough and complete.

The auditor-based compliance on interviews with the Superintendent, OSI investigators, random staff, inmate interviews, PREA Compliance Manager/PREA Point Person, and reviewed the following policies/procedures: Directive 0700 – Office of Special Investigations; Directive 4027A – Sexual Abuse Prevention & Intervention Inmate – on – Inmate Directive 4027B – Sexual Abuse Reporting & Investigation Inmate – on – Inmate; Directive 4028A – Sexual Abuse Prevention & Intervention Staff-on-Inmate; Directive 4028B – Sexual Abuse Reporting & Investigation Staff–on–Inmate. The Acting Commissioner of Corrections and Community Supervision (DOCCS) has delegated the authority to conduct administrative and criminal investigations to the Office of Special Investigations (OSI) in accordance with Correction Law 112 and Directive 0700, Office of Special Investigations.” OSI works cooperatively with the New York State Police (NYSP), Bureau of Criminal Investigation (BCI) in the investigation of reported incidents of staff on inmate and inmate-on-inmate sexual abuse that may involve criminal conduct.

TRAINING AND EDUCATION

Standard 115.231: Employee training

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.231 (a)

- Does the agency train all employees who may have contact with residents on: Its zero-tolerance policy for sexual abuse and sexual harassment? Yes No
- Does the agency train all employees who may have contact with residents on: How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures? Yes No
- Does the agency train all employees who may have contact with residents on: Residents’ right to be free from sexual abuse and sexual harassment Yes No
- Does the agency train all employees who may have contact with residents on: The right of residents and employees to be free from retaliation for reporting sexual abuse and sexual harassment? Yes No
- Does the agency train all employees who may have contact with residents on: The dynamics of sexual abuse and sexual harassment in confinement? Yes No

- Does the agency train all employees who may have contact with residents on: The common reactions of sexual abuse and sexual harassment victims? Yes No
- Does the agency train all employees who may have contact with residents on: How to detect and respond to signs of threatened and actual sexual abuse? Yes No
- Does the agency train all employees who may have contact with residents on: How to avoid inappropriate relationships with residents? Yes No
- Does the agency train all employees who may have contact with residents on: How to communicate effectively and professionally with residents, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming residents? Yes No
- Does the agency train all employees who may have contact with residents on: How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities?
 Yes No

115.231 (b)

- Is such training tailored to the gender of the residents at the employee's facility? Yes No
- Have employees received additional training if reassigned from a facility that houses only male residents to a facility that houses only female residents, or vice versa? Yes No

115.231 (c)

- Have all current employees who may have contact with residents received such training?
 Yes No
- Does the agency provide each employee with refresher training every two years to ensure that all employees know the agency's current sexual abuse and sexual harassment policies and procedures? Yes No
- In years in which an employee does not receive refresher training, does the agency provide refresher information on current sexual abuse and sexual harassment policies? Yes No

115.231 (d)

- Does the agency document, through employee signature or electronic verification, that employees understand the training they have received? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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Staff at Rochester Correctional Facility when interviewed, demonstrated knowledge and insight into PREA. Staff at the facility were asked specific, scripted questions from the random staff interview format, all of which were professionally and confidently answered. The questions were directed at specific training about the following: The agency zero-tolerance policy for sexual abuse and sexual harassment; How to fulfill their responsibilities concerning prevention, detection, reporting, and response concerning sexual abuse and sexual harassment; The inmates' rights to be free from sexual abuse and sexual harassment; Inmate and employee's rights to be free from retaliation for reporting sexual abuse and sexual harassment; The dynamics of sexual abuse and harassment in confinement; The common reaction of victims to sexual abuse and sexual harassment; How to detect signs of sexual abuse and sexual harassment; How to avoid inappropriate relationships; How to communicate effectively and professionally with inmates (LGBTI); and how to comply with relevant laws related to mandatory reporting.

Additional questions were also asked of staff concerning their training, their first responder duties, inmate reporting of sexual abuse and sexual harassment, inmate limited privacy issues (including "knock and announce") and the safety and security of staff and inmates at the facility. The auditor was very impressed with the responses received and the staff's evaluation of safety and security for the Rochester Correctional Facility.

The auditor relied on random staff interviews, interview with PREA Compliance Manager and the following policies/procedures, manuals, documents, etc.: Training Manual Subject: 0.100 – Frequency Training Chart and Training Bulletins; Training Bulletin 7, PREA: Sexual Abuse Prevention and Response; Training Manual Subject: 7.100 – Employee Familiarization; Training Manual Subject: 7.000 – Initial Employee Training 40-hour Orientation; Acting Commissioner Memo – RE: Policies and Standards Generally Applicable to all Employees; Deputy and Associate Commissioner Memo – RE: Sexual Abuse Prevention and Response Training; Sexual Abuse Prevention and Response Lesson Plan and training documentation reviewed sent with the PAQ as well as provided during the on-site visit which meets the standard.

Standard 115.232: Volunteer and contractor training

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.232 (a)

- Has the agency ensured that all volunteers and contractors who have contact with residents have been trained on their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures? Yes No

115.232 (b)

- Have all volunteers and contractors who have contact with residents been notified of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents (the level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with residents)? Yes No

115.232 (c)

- Does the agency maintain documentation confirming that volunteers and contractors understand the training they have received? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

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All contractors and volunteers who have contact with inmates at the Rochester CF receive PREA training prior to working in the facility. Orientation includes the agency's policy and procedures regarding sexual abuse and sexual harassment prevention, detection, reporting, and response including zero tolerance. Upon completion of orientation, the volunteer/contractor signs the Acknowledgment Form. Signed forms are maintained at the

facility. Rochester CF did not have any volunteers available during the on-site audit, so a phone interview was conducted on Oct. 22, 2019.

The auditor relied on the interviews with a volunteer on Oct. 22, 2019 via phone, PREA Compliance Manager interview and the following documentation to determine compliance: Directive 4027A – Sexual Abuse Prevention & Intervention Inmate – on – Inmate; Directive 4028A – Sexual Abuse Prevention & Intervention Staff – on – Inmate; Directive 4071 – Guidelines for Construction Projects; Directive 4750 – Volunteer Services Program; Acting Commissioner Memo – RE: Policy on the Prevention of Sexual Abuse of Offenders to all Employees, Contractors, Volunteers and Interns; and review of the Volunteer and Contractor training and acknowledgment forms.

Standard 115.233: Resident education

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.233 (a)

- During intake, do residents receive information explaining: The agency's zero-tolerance policy regarding sexual abuse and sexual harassment? Yes No
- During intake, do residents receive information explaining: How to report incidents or suspicions of sexual abuse or sexual harassment? Yes No
- During intake, do residents receive information explaining: Their rights to be free from sexual abuse and sexual harassment? Yes No
- During intake, do residents receive information explaining: Their rights to be free from retaliation for reporting such incidents? Yes No
- During intake, do residents receive information regarding agency policies and procedures for responding to such incidents? Yes No

115.233 (b)

- Does the agency provide refresher information whenever a resident is transferred to a different facility? Yes No

115.233 (c)

- Does the agency provide resident education in formats accessible to all residents, including those who: Are limited English proficient? Yes No
- Does the agency provide resident education in formats accessible to all residents, including those who: Are deaf? Yes No

- Does the agency provide resident education in formats accessible to all residents, including those who: Are visually impaired? Yes No
- Does the agency provide resident education in formats accessible to all residents, including those who: Are otherwise disabled? Yes No
- Does the agency provide resident education in formats accessible to all residents, including those who: Have limited reading skills? Yes No

115.233 (d)

- Does the agency maintain documentation of resident participation in these education sessions? Yes No

115.233 (e)

- In addition to providing such education, does the agency ensure that key information is continuously and readily available or visible to residents through posters, resident handbooks, or other written formats? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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NYDOCCS provides PREA education to all inmates beginning at intake into the agency. At reception, inmates are provided a PREA pamphlet and inmate handbook which explains the agency's zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents. When receiving inmates at the facility, the Draft Officer covers the PREA information with the inmate. The inmate also receives an Inmate Orientation Manual that includes PREA information and a pamphlet "The Prevention of Sexual Abuse in Prison." These materials cover the agency's zero tolerance policy and how to report incidents. Inmates also view the PREA video "Ending Sexual Abuse Behind the Walls: An Orientation."

Inmate education is documented for each inmate and maintained in the inmate's file. Random inmate interviews confirm they have received PREA information at intake and during orientation at the facility. All inmates transferred to Rochester Correctional Facility receive a PREA pamphlet in preferred language upon arrival, explaining the agency's and facility's zero-tolerance policy regarding sexual abuse and sexual harassment and explaining how to report incidents or suspicions of sexual abuse or sexual harassment. The PREA Pamphlet is offered during the interview with the Draft Officer who covers the Zero Tolerance policy verbally and tells the inmate how to make a report. This process was not able to be observed by the auditor during the site visit as intakes occur at RCF between 5 p.m. and 9 p.m. and there was no set time of arrival. The auditor did interview two inmates who arrived the night before and both inmates confirmed they were given information immediately upon arrival regarding Prison Rape Elimination.

The agency ensures that key information is continuously and readily available or visible to inmates through posters, inmate handbooks, or other written formats as directed through DIR 4027A. Offenders are provided an Inmate Handbook containing PREA information and provided instructions on reporting methods, and what to do if an offender feels threats to his/her safety. Handbooks are available in English and Spanish. Zero-Tolerance Policy posters (English and Spanish) are placed throughout the living units, break rooms, offender and employee dining areas, law library, general library, offender work and educational areas, and multi-purpose areas and visitation. Inmate Handbook in both English and Spanish is available in the Law Library. Auditor observed a thorough display of posters and accessibility of the Inmate Handbook.

The auditor relied on information provided with the PAQ and random interviews with staff/inmates, Draft Officer, Superintendent and the following documentation: Directive 4021 – Offender Reception/Classification; Directive 4027A – Sexual Abuse Prevention & Intervention Inmate – on – Inmate; Deputy Commissioner for Program Services Memo – RE: PREA: Inmate Orientation Film Implementation; Associate Commissioner Memo – RE: New and Updated PREA Material; Associate Commissioner Memo – RE: Sexual Abuse Prevention Inmate Orientation Outline; Rochester Correctional Facility: Inmate Orientation Sign-in Sheets, PREA Posters and Pamphlets; and a review of Draft Receipts of randomly selected inmate records was conducted.

Standard 115.234: Specialized training: Investigations

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.234 (a)

- In addition to the general training provided to all employees pursuant to §115.231, does the agency ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators receive training in conducting such investigations in confinement settings? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.221(a).) Yes No NA

115.234 (b)

- Does this specialized training include: Techniques for interviewing sexual abuse victims? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.221(a).) Yes No NA
- Does this specialized training include: Proper use of Miranda and Garrity warnings? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.221(a).) Yes No NA
- Does this specialized training include: Sexual abuse evidence collection in confinement settings? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.221(a).) Yes No NA
- Does this specialized training include: The criteria and evidence required to substantiate a case for administrative action or prosecution referral? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.221(a).) Yes No NA

115.234 (c)

- Does the agency maintain documentation that agency investigators have completed the required specialized training in conducting sexual abuse investigations? (N/A if the agency does not conduct any form of administrative or criminal sexual abuse investigations. See 115.221(a).) Yes No NA

115.234 (d)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

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NYDOCCS Office of Special Investigations (OSI) Policy Manual Chapter 5 (confidential) sets forth training requirements for Sex Crimes Investigations; ensures in addition to the general training provided to all employees pursuant to §115.31, the agency shall ensure that, to the extent the agency itself conducts sexual abuse investigations, its investigators have received training in conducting such investigations in confinement settings. DOCCS has played a key role introducing legislation to make sexual conduct between an employee and an inmate under the Department's custody, a crime. Shortly after that law was enacted in 1996, the Department established a "Sex Crimes Unit" within the Office of Special Investigations, one of the first in the nation. These specialized investigators work closely with the New York State Police Bureau of Criminal Investigations.

The Auditor interviewed two DOCCS Investigators from (OSI) Sex Crime Division on October 22, 2019 at Rochester Correctional Facility; reviewed training records/logs for investigative staff and determined specialized training for sexual abuse investigations has been conducted for all DOCCS investigative staff. OSI investigators are sent to multiple trainings to stay up to date with any new evidence protocols and technology discoveries. During the interviews of the investigators, the Auditor discussed practices and reviewed sample investigations pertaining to Groveland Correctional Facility as Rochester CF has had no investigations. The agency meets this standard with just the basic training for the investigators. Based on analysis of information obtained from interviews, document review, investigator's training records and certifications, and policy review, Rochester Correctional Facility meets requirements of this standard. In addition, auditor's analysis of the extensive training acquired by investigators assigned to this specialized unit as described in the paragraph above, the Agency and Rochester Correctional Facility exceeds the requirements of this standard

The Auditor reviewed training records/logs for investigative staff and determined specialized training for sexual abuse investigations has been conducted for all DOCCS investigative staff. National Institute of Corrections Training (Section Overview) PREA: Investigating Sexual abuse in Confinement Settings (DOCCS Course Code 17072); Chapter 5, Sex Crimes Division (confidential procedures); the agency specialized training includes techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution referral. Report of Training Form for PREA Specialized Training-9/18/18 RE: Investigations; documents that the agency investigators have completed the required specialized training in conducting sexual abuse investigations. DOCCS currently has 31 investigators employed who have completed the required training.

Standard 115.235: Specialized training: Medical and mental health care

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.235 (a)

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in: How to detect and assess signs of sexual abuse and sexual harassment? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.)
 Yes No NA

- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in: How to preserve physical evidence of sexual abuse? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) Yes No NA
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in: How to respond effectively and professionally to victims of sexual abuse and sexual harassment? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) Yes No NA
- Does the agency ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in: How and to whom to report allegations or suspicions of sexual abuse and sexual harassment? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) Yes No NA

115.235 (b)

- If medical staff employed by the agency conduct forensic examinations, do such medical staff receive appropriate training to conduct such examinations? (N/A if agency does not employ medical staff or the medical staff employed by the agency do not conduct forensic exams.) Yes No NA

115.235 (c)

- Does the agency maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners who work regularly in its facilities.) Yes No NA

115.235 (d)

- Do medical and mental health care practitioners employed by the agency also receive training mandated for employees by §115.231? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners employed by the agency.) Yes No NA
- Do medical and mental health care practitioners contracted by and volunteering for the agency also receive training mandated for contractors and volunteers by §115.232? (N/A if the agency does not have any full- or part-time medical or mental health care practitioners contracted by or volunteering for the agency.) Yes No NA

Auditor Overall Compliance Determination

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NYS DOCCS, Rochester Correctional Facility has an MOU with the New York State Office of Mental Health. The Medical nurse works out of Rochester CF and is available to the inmates when needed. She is also able to make decisions regarding MH issues and will contact OMH if assistance is needed with an inmate. A review of the PAQ showed the facility had 100% of medical/mental health staff completing this training. Rochester CF does not conduct forensic exams. If a forensic exam would be required, the inmate will be transported to a local hospital (Strong Memorial Hospital).

NYS DOCCS Training Manual Subject 7.000; 40 hour Orientation/Initial Employee Training, Non-Peace Officer Employees at Facilities - 7/10/17 (Mandatory); Office Of Mental Health (OMH) Memorandum of Understanding- 9/14/16; Power Point Presentation: PREA: Medical and Mental Health Care HSPM 1.60 and PREA Standards; outlines how the agency shall ensure that all full- and part-time medical and mental health care practitioners who work regularly in its facilities have been trained in: How to detect and assess signs of sexual abuse and sexual harassment; How to preserve physical evidence of sexual abuse; How to respond effectively and professionally to victims of sexual abuse and sexual harassment; and How and to whom to report allegations or suspicions of sexual abuse and sexual harassment. The Auditor determined medical staff are very familiar with PREA and the process for detecting and assessing signs of sexual abuse and sexual harassment and how to preserve physical evidence of sexual abuse.

The agency shall maintain documentation that medical and mental health practitioners have received the training referenced in this standard either from the agency or elsewhere. The Auditor reviewed training documentation; Regional Training Forms, Specialized Training Medical/Mental Health Staff. The Auditor received completed staff training records and reviewed additional documentation while on-site.

SCREENING FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

Standard 115.241: Screening for risk of victimization and abusiveness

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.241 (a)

- Are all residents assessed during an intake screening for their risk of being sexually abused by other residents or sexually abusive toward other residents? Yes No
- Are all residents assessed upon transfer to another facility for their risk of being sexually abused by other residents or sexually abusive toward other residents? Yes No

115.241 (b)

- Do intake screenings ordinarily take place within 72 hours of arrival at the facility?
 Yes No

115.241 (c)

- Are all PREA screening assessments conducted using an objective screening instrument?
 Yes No

115.241 (d)

- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident has a mental, physical, or developmental disability? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: The age of the resident? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: The physical build of the resident? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident has previously been incarcerated?
 Yes No

- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident's criminal history is exclusively nonviolent? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident has prior convictions for sex offenses against an adult or child? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming (the facility affirmatively asks the resident about his/her sexual orientation and gender identity AND makes a subjective determination based on the screener's perception whether the resident is gender non-conforming or otherwise may be perceived to be LGBTI)? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: Whether the resident has previously experienced sexual victimization? Yes No
- Does the intake screening consider, at a minimum, the following criteria to assess residents for risk of sexual victimization: The resident's own perception of vulnerability? Yes No

115.241 (e)

- In assessing residents for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: prior acts of sexual abuse? Yes No
- In assessing residents for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: prior convictions for violent offenses? Yes No
- In assessing residents for risk of being sexually abusive, does the initial PREA risk screening consider, when known to the agency: history of prior institutional violence or sexual abuse? Yes No

115.241 (f)

- Within a set time period not more than 30 days from the resident's arrival at the facility, does the facility reassess the resident's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening? Yes No

115.241 (g)

- Does the facility reassess a resident's risk level when warranted due to a: Referral? Yes No

- Does the facility reassess a resident's risk level when warranted due to a: Request?
 Yes No
- Does the facility reassess a resident's risk level when warranted due to a: Incident of sexual abuse?
 Yes No
- Does the facility reassess a resident's risk level when warranted due to a: Receipt of additional information that bears on the resident's risk of sexual victimization or abusiveness?
 Yes No

115.241 (h)

- Is it the case that residents are not ever disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (d)(1), (d)(7), (d)(8), or (d)(9) of this section?
 Yes No

115.241 (i)

- Has the agency implemented appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive information is not exploited to the resident's detriment by staff or other residents?
 Yes No

Auditor Overall Compliance Determination

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NYDOCCS screens all inmates for risk of victimization and abusiveness upon arrival. An initial screening is completed by the Draft (intake) Officer upon arrival. Within 5 days of arrival, a more thorough screening is conducted by the Offender Rehabilitation Coordinator (ORC). The initial screening instrument includes whether the inmate has a mental, physical, or developmental disability, the age and physical build of the inmate, previous incarceration history, whether the inmate's criminal history is exclusively nonviolent, prior convictions for sex

offenses, whether the inmate is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming, past sexual victimization, self-perception of vulnerability and civil immigration status. Within the first thirty (30) days of arrival at the facility, staff reassesses the inmate's risk of victimization or abusiveness based upon any additional, relevant information received by the facility since the intake screening. Inmates are not disciplined for refusing to answer questions during the screening process. Information obtained during the initial assessment and reassessment is placed in the inmate's guidance file to ensure that sensitive information is not exploited to the resident's detriment by staff or other inmates. Only authorized staff has access to these files. The draft (intake) arrived at the facility after my departure for the day and I interviewed two inmates who arrived on the draft and both inmates stated they were asked several questions by the Draft Officer upon arrival to include the above information.

The Auditor relied on interviews with random staff, Draft Officer, ORC, and random inmates as well as review of policies/procedures and any supporting documentation to determine compliance with this standard: Rochester CF FOM 011 -- PREA Risk Screening; Form 115.41M PREA Risk Screening Form -- Male Facility; Memo New/Revised Other Security Characteristics regarding Sexual Orientation and Gender Identity (SOGI); examples of Risk Screening Forms obtained during the audit.

Standard 115.242: Use of screening information

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.242 (a)

- Does the agency use information from the risk screening required by § 115.241, with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Housing Assignments? Yes No
- Does the agency use information from the risk screening required by § 115.241, with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Bed assignments? Yes No
- Does the agency use information from the risk screening required by § 115.241, with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Work Assignments? Yes No
- Does the agency use information from the risk screening required by § 115.241, with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Education Assignments? Yes No
- Does the agency use information from the risk screening required by § 115.241, with the goal of keeping separate those residents at high risk of being sexually victimized from those at high risk of being sexually abusive, to inform: Program Assignments? Yes No

115.242 (b)

- Does the agency make individualized determinations about how to ensure the safety of each resident? Yes No

115.242 (c)

- When deciding whether to assign a transgender or intersex resident to a facility for male or female residents, does the agency consider on a case-by-case basis whether a placement would ensure the resident's health and safety, and whether a placement would present management or security problems (NOTE: if an agency by policy or practice assigns residents to a male or female facility on the basis of anatomy alone, that agency is not in compliance with this standard)?
 Yes No
- When making housing or other program assignments for transgender or intersex residents, does the agency consider on a case-by-case basis whether a placement would ensure the resident's health and safety, and whether a placement would present management or security problems?
 Yes No

115.242 (d)

- Are each transgender or intersex resident's own views with respect to his or her own safety given serious consideration when making facility and housing placement decisions and programming assignments? Yes No

115.242 (e)

- Are transgender and intersex residents given the opportunity to shower separately from other residents? Yes No

115.242 (f)

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex residents, does the agency always refrain from placing: lesbian, gay, and bisexual residents in dedicated facilities, units, or wings solely on the basis of such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I residents pursuant to a consent decree, legal settlement, or legal judgement.)
 Yes No NA

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex residents, does the agency always refrain from placing: transgender residents in dedicated facilities, units, or wings solely on the basis of such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I residents pursuant to a consent decree, legal settlement, or legal judgement.)
 Yes No NA

- Unless placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for the purpose of protecting lesbian, gay, bisexual, transgender, or intersex residents, does the agency always refrain from placing: intersex residents in dedicated facilities, units, or wings solely on the basis of such identification or status? (N/A if the agency has a dedicated facility, unit, or wing solely for the placement of LGBT or I residents pursuant to a consent decree, legal settlement, or legal judgement.)
 Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

NYDOCCS uses information from the risk assessment to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive. Transgender or intersex (T/I) inmate's housing is considered on a case-by-case basis, placement considers the inmate's health and safety, and whether the placement would present management or security problems; placement is reassessed as needed; T/I inmates own view with respect to his or her own safety is given consideration; T/I inmates are given the opportunity to shower separately from other inmates. Rochester CF makes individualized determinations about how to ensure the safety of each inmate. Rochester CF does not place LGBTI inmates in a dedicated unit based solely on identification or status. The auditor determined compliance through review of Policy/Procedures, interviews with the PREA Compliance Manager and staff responsible for Risk Screening. RCF had no transgender/intersex/gay/bisexual residents to interview while the auditor was onsite.

The Auditor relied upon interviews with random staff, random inmates, Draft Officer, PREA Compliance Manager/PREA Point Person, and the following policies/procedures and documentation provided with the PAQ and onsite reviews of documentation: Deputy Commissioner Memo – RE: Prison Rape Elimination Act (PREA) Risk Screening; Associate Commissioner Memo – RE: New/Revised Other Security Characteristics Regarding Sexual Orientation and Gender Identity; Rochester CF Report of Risk Screening Information and Rochester CF FOM 011 - PREA Risk Screening.

REPORTING

Standard 115.251: Resident reporting

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.251 (a)

- Does the agency provide multiple internal ways for residents to privately report: Sexual abuse and sexual harassment? Yes No
- Does the agency provide multiple internal ways for residents to privately report: Retaliation by other residents or staff for reporting sexual abuse and sexual harassment? Yes No
- Does the agency provide multiple internal ways for residents to privately report: Staff neglect or violation of responsibilities that may have contributed to such incidents? Yes No

115.251 (b)

- Does the agency also provide at least one way for residents to report sexual abuse or sexual harassment to a public or private entity or office that is not part of the agency? Yes No
- Is that private entity or office able to receive and immediately forward resident reports of sexual abuse and sexual harassment to agency officials? Yes No
- Does that private entity or office allow the resident to remain anonymous upon request? Yes No

115.251 (c)

- Do staff members accept reports of sexual abuse and sexual harassment made verbally, in writing, anonymously, and from third parties? Yes No
- Do staff members promptly document any verbal reports of sexual abuse and sexual harassment? Yes No

115.251 (d)

- Does the agency provide a method for staff to privately report sexual abuse and sexual harassment of residents? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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NYDOCCS has procedures allowing for multiple internal and external ways for inmates to report sexual abuse, sexual harassment, and retaliation. PREA reporting methods are shared with inmates at intake, during orientation, in the PREA brochure, and on posters throughout the facility. The PREA Brochure, The Prevention of Sexual Abuse in Prison What Inmates Need to Know, informs inmates they can report verbally and in writing to staff, write the PREA Point Person, write the Office of Special Investigations, and report to an outside agency to the New York State Commission of Correction. Inmates may also report allegations through a third party or send an anonymous report. Inmate interviews indicated they were comfortable reporting sexual abuse or sexual harassment and they knew the different methods available for reporting. Staff indicated through interviews they were aware of the methods available to them to report sexual abuse and sexual harassment of inmates. The staff's PREA information card also outline that staff can privately report by calling the Office of Special Investigations, Sex Crimes Division. NYDOCCS has a confidential rape crisis hotline which also provides an additional avenue for inmates to report sexual abuse/harassment which is (777). A phone call was placed to the 777 number and I spoke with a rape-crisis counselor. Inmates were very well educated on their options to use (777) as this number allows for crisis counseling, a referral for emotional support and advocacy services as well as taking reports of sexual abuse.

The Auditor determined compliance through random interviews with staff, inmates and the PREA Coordinator. The Auditor also made observations of signage posted throughout the facility for staff and inmates to privately report sexual abuse and sexual harassment. This auditor also relied on the following documentation sent prior to the audit and obtained during the audit: Employee Manual Section - 2.20 (Revised 2013); Directive 4027A, Sexual Abuse Prevention & Intervention - Inmate on Inmate; DIR 4028A Sexual Abuse Prevention & Intervention - Staff on Inmate; Sexual Abuse Prevention and Response (SAPR) Lesson Plan; Inmate education pamphlet, the "Prevention of Sexual Abuse in Prison, What Inmates need to know" outlines how the agency shall provide multiple internal ways for inmates to privately report sexual abuse and sexual harassment, retaliation by other

inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.

Standard 115.252: Exhaustion of administrative remedies

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.252 (a)

- Is the agency exempt from this standard? NOTE: The agency is exempt ONLY if it does not have administrative procedures to address resident grievances regarding sexual abuse. This does not mean the agency is exempt simply because a resident does not have to or is not ordinarily expected to submit a grievance to report sexual abuse. This means that as a matter of explicit policy, the agency does not have an administrative remedies process to address sexual abuse.
 Yes No

115.252 (b)

- Does the agency permit residents to submit a grievance regarding an allegation of sexual abuse without any type of time limits? (The agency may apply otherwise-applicable time limits to any portion of a grievance that does not allege an incident of sexual abuse.) (N/A if agency is exempt from this standard.) Yes No NA
- Does the agency always refrain from requiring a resident to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse? (N/A if agency is exempt from this standard.) Yes No NA

115.252 (c)

- Does the agency ensure that: A resident who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.) Yes No NA
- Does the agency ensure that: Such grievance is not referred to a staff member who is the subject of the complaint? (N/A if agency is exempt from this standard.) Yes No NA

115.252 (d)

- Does the agency issue a final agency decision on the merits of any portion of a grievance alleging sexual abuse within 90 days of the initial filing of the grievance? (Computation of the 90-day time period does not include time consumed by residents in preparing any administrative appeal.) (N/A if agency is exempt from this standard.) Yes No NA

- If the agency determines that the 90-day timeframe is insufficient to make an appropriate decision and claims an extension of time (the maximum allowable extension of time to respond is 70 days per 115.252(d)(3)) , does the agency notify the resident in writing of any such extension and provide a date by which a decision will be made? (N/A if agency is exempt from this standard.)
 Yes No NA
- At any level of the administrative process, including the final level, if the resident does not receive a response within the time allotted for reply, including any properly noticed extension, may a resident consider the absence of a response to be a denial at that level? (N/A if agency is exempt from this standard.) Yes No NA

115.252 (e)

- Are third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, permitted to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse? (N/A if agency is exempt from this standard.)
 Yes No NA
- Are those third parties also permitted to file such requests on behalf of residents? (If a third-party files such a request on behalf of a resident, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process.) (N/A if agency is exempt from this standard.) Yes No NA
- If the resident declines to have the request processed on his or her behalf, does the agency document the resident's decision? (N/A if agency is exempt from this standard.)
 Yes No NA

115.252 (f)

- Has the agency established procedures for the filing of an emergency grievance alleging that a resident is subject to a substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) Yes No NA
- After receiving an emergency grievance alleging a resident is subject to a substantial risk of imminent sexual abuse, does the agency immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to a level of review at which immediate corrective action may be taken? (N/A if agency is exempt from this standard.)
 Yes No NA
- After receiving an emergency grievance described above, does the agency provide an initial response within 48 hours? (N/A if agency is exempt from this standard.) Yes No NA

- After receiving an emergency grievance described above, does the agency issue a final agency decision within 5 calendar days? (N/A if agency is exempt from this standard.)
 Yes No NA
- Does the initial response and final agency decision document the agency's determination whether the resident is in substantial risk of imminent sexual abuse? (N/A if agency is exempt from this standard.) Yes No NA
- Does the initial response document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.) Yes No NA
- Does the agency's final decision document the agency's action(s) taken in response to the emergency grievance? (N/A if agency is exempt from this standard.) Yes No NA

115.252 (g)

- If the agency disciplines a resident for filing a grievance related to alleged sexual abuse, does it do so ONLY where the agency demonstrates that the resident filed the grievance in bad faith? (N/A if agency is exempt from this standard.) Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

The agency shall be exempt from this standard if it does not have administrative procedures to address inmate grievances regarding sexual abuse. NYDOCCS is exempt from this Standard in accordance with Directive 4040 Inmate Grievance Program, Section 701.3, General Policies, dated 01/20/2016. The DOCCS is exempt in accordance with Directive 4040 Inmate Grievance Program and 702.2(i) Correction Law, Section 139.9, 9NYCRR Part 7695. A grievance filed is deemed exhausted upon filing with regards to the Prison Litigation Reform Act.

Inmates are not required to file grievances concerning alleged incidents of sexual abuse and sexual harassment. NYDOCCS not only addresses such in the above directive, but outlines in a summary memorandum concerning sexual abuse and sexual harassment complaints the following: "Any inmate grievance filed regarding a complaint of sexual abuse or sexual harassment shall immediately be reported by the IGP supervisor to the Watch Commander for further handling in accordance with departmental policies. The complaint shall be deemed exhausted upon filing for PLRA purposes. If the grievance does not set forth any additional matters that require a response, the grievance shall be closed." The facility is exempt from this standard making Standard 115.252 non-applicable.

Standard 115.253: Resident access to outside confidential support services

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.253 (a)

- Does the facility provide residents with access to outside victim advocates for emotional support services related to sexual abuse by giving residents mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations? Yes No
- Does the facility enable reasonable communication between residents and these organizations and agencies, in as confidential a manner as possible? Yes No

115.253 (b)

- Does the facility inform residents, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws? Yes No

115.253 (c)

- Does the agency maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide residents with confidential emotional support services related to sexual abuse? Yes No
- Does the agency maintain copies of agreements or documentation showing attempts to enter into such agreements? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

On October 22, 2019, the auditor conducted a telephone interview the Director of the Rape Crisis Center associated with Groveland and Rochester Correctional Facilities. This auditor was able to speak to the Director of the RESTORE Sexual Assault Services in Rochester regarding services provided to these two facilities. They have not had to supply any services to Rochester during this audit period.

The Director stated they do not currently have an MOU in place with DOCCS, but they provide services as if they did have an MOU. According to DOCCS, RESTORE provides services under a contract with New York State Coalition Against Sexual Assault (NYSCASA) that is funded by the NYS Office of Victim Services. She stated the PREA Compliance Manager is their primary contact with these facilities and they would contact her with any issues. If services were to be provided over the phone, she stated they would contact the PREA Compliance Manager and the manager would set the inmate up on a legal line. She stated that every hospital has their own advocacy program for rape crisis, however, if anyone requests their services for support, they would accompany them to the hospital. She also stated they would accompany the inmate during a forensic medical exam, investigatory interviews/court proceedings if needed, emotional support services, crisis intervention, provide as much information as possible to the victim and make any relevant referrals. She stated they remain confidential unless they threaten to harm themselves or if they discuss anything that is mandated by law to report (juvenile abuse, etc.). She stated all services provided are available to all inmates regardless of whether they have reported sexual abuse or sexual harassment.

NYSDOCCS meets the standard by providing services; however, they exceed the standard as New York has the most comprehensive victim support program available to survivors of sexual victimization in any state prison system in the nation. The 777 direct-dial number is available every day, in English, Spanish and other languages, at all 52 facilities operated by the state Department of Corrections and Community Supervision (DOCCS). In addition to the state-wide 777 rape crisis hotline, every facility has an associated community-based rape crisis program designated as that facility's "PREA Center" for the provision of ongoing victim support and advocacy services. Services are provided via legal calls and/or legal visits.

The Auditor relied on interviews with the PREA Compliance Manager, RESTORE Director, random staff/inmate interviews and the following documentation was reviewed as well as observations of memorandums and signage posted throughout the facility providing inmates access to outside victim advocates for emotional support services related to sexual abuse: Directive 4423 – Inmate Telephone Calls; Directive 4404 – Inmate Legal Visits; Directive 4421 – Privileged Correspondence; and Memo: from Jason D. Effman, Associate Commissioner to All Superintendents, 12/18/18, Implementation of PREA Statewide Rape Crisis Hotline.

Standard 115.254: Third-party reporting

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.254 (a)

- Has the agency established a method to receive third-party reports of sexual abuse and sexual harassment? Yes No
- Has the agency distributed publicly information on how to report sexual abuse and sexual harassment on behalf of a resident? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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NYDOCCS Web page for PREA reference outlines the method for third party reports of sexual abuse and sexual harassment and shall distribute publicly information on how to report sexual abuse and sexual harassment on behalf of an inmate. The Auditor reviewed the NYDOCCS Policy Web page dated 8/22/18 to ensure compliance with 115.254(a). Also, random interviews with staff and inmates determined that they are aware of the third-party reporting process. DOCCS meets this standard.

OFFICIAL RESPONSE FOLLOWING A RESIDENT REPORT

Standard 115.261: Staff and agency reporting duties

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.261 (a)

- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency? Yes No
- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding retaliation against residents or staff who reported an incident of sexual abuse or sexual harassment? Yes No
- Does the agency require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding any staff neglect or violation of responsibilities that may have contributed to an incident of sexual abuse or sexual harassment or retaliation? Yes No

115.261 (b)

- Apart from reporting to designated supervisors or officials, do staff always refrain from revealing any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions? Yes No

115.261 (c)

- Unless otherwise precluded by Federal, State, or local law, are medical and mental health practitioners required to report sexual abuse pursuant to paragraph (a) of this section? Yes No
- Are medical and mental health practitioners required to inform residents of the practitioner's duty to report, and the limitations of confidentiality, at the initiation of services? Yes No

115.261 (d)

- If the alleged victim is under the age of 18 or considered a vulnerable adult under a State or local vulnerable persons statute, does the agency report the allegation to the designated State or local services agency under applicable mandatory reporting laws? Yes No

115.261 (e)

- Does the facility report all allegations of sexual abuse and sexual harassment, including third-party and anonymous reports, to the facility's designated investigators? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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NY DOCCS policy outlines that all staff are to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. Also, apart from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions.

The Auditor was able to determine compliance through random staff interviews and the policy and procedure reviews: DOCCS Employee Manual Section - 2.20; DIR 4027A – Sexual Abuse Prevention & Intervention - Inmate on Inmate; and DIR 4028A - Sexual Abuse Prevention & Intervention – Staff on Inmate/Staff on Parolee-11/29/17.

Standard 115.262: Agency protection duties

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.262 (a)

- When the agency learns that a resident is subject to a substantial risk of imminent sexual abuse, does it take immediate action to protect the resident? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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NYDOCCS policy requires staff to take immediate action to protect any inmate subject to substantial risk of sexual abuse. Immediate steps to be taken to protect inmates with a substantial risk of sexual abuse are outlined in policies. Inmates are immediately removed from the area and placed in a safe location. RCF does not have protective custody, all responses to questions showed the staff knew what needed to take place if an imminent risk situation arose.

Staff interviews gleaned a complete understanding of the steps needed to protect an inmate at risk of sexual abuse. Rochester CF has not had any reports of an inmate who was at substantial risk of imminent sexual abuse during the 12 months prior to the audit. The auditor relied on random staff interviews, random inmate interviews, PREA Compliance Manager interview, Supt. Interview, and review of Directive 4040 – Inmate Grievance Program and Directive 4948 – Protective Custody Status.

Standard 115.263: Reporting to other confinement facilities

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.263 (a)

- Upon receiving an allegation that a resident was sexually abused while confined at another facility, does the head of the facility that received the allegation notify the head of the facility or appropriate office of the agency where the alleged abuse occurred? Yes No

115.263 (b)

- Is such notification provided as soon as possible, but no later than 72 hours after receiving the allegation? Yes No

115.263 (c)

- Does the agency document that it has provided such notification? Yes No

115.263 (d)

- Does the facility head or agency office that receives such notification ensure that the allegation is investigated in accordance with these standards? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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NYDOCCS policy requires upon receiving an allegation that an inmate was sexually abused while confined at another facility, the Superintendent of the facility that received the allegation must notify the head of the facility where the sexual abuse is alleged to have occurred within 72 hours. The facility must also notify the Office of Special Investigations. During the past year, Rochester Correctional Facility has not received any Report of Sexual Abuse notifications from another facility; nor, have they had to make any notifications in the last twelve months to other facilities regarding allegations of incidents at those facilities.

Auditor finds compliance based on review of the following: Memo from Jason Effman, Associate Commissioner, RE: Reporting to other Confinement Facilities (Revised) PREA Standard/263-Entire Form 115.63 Report of Sexual Abuse - 4/13/18 - Jail Administrators contact Information; "Sexual Abuse Threat Incident Log Books" – Covers Inmate on Inmate/Staff on Inmate; outlines how the facility head or agency office that receives such notification shall ensure that the allegation is investigated in accordance with these standards. Interviews were conducted with the Agency Head and Facility Superintendent who acknowledged notifications of abuse from one facility to another are investigated in accordance with standard 115.263 (d) and interview with PREA Compliance Manager.

Standard 115.264: Staff first responder duties

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.264 (a)

- Upon learning of an allegation that a resident was sexually abused, is the first security staff member to respond to the report required to: Separate the alleged victim and abuser?
 Yes No
- Upon learning of an allegation that a resident was sexually abused, is the first security staff member to respond to the report required to: Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence? Yes No
- Upon learning of an allegation that a resident was sexually abused, is the first security staff member to respond to the report required to: Request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence? Yes No
- Upon learning of an allegation that a resident was sexually abused, is the first security staff member to respond to the report required to: Ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating, if the abuse occurred within a time period that still allows for the collection of physical evidence? Yes No

115.264 (b)

- If the first staff responder is not a security staff member, is the responder required to request that the alleged victim not take any actions that could destroy physical evidence, and then notify security staff? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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NYDOCCS provides training to all first responders which include the separation of the alleged victim and abuser; preservation and protection of the crime scene until appropriate steps can be taken to collect evidence; the collection of physical evidence, requesting that the alleged victim not take any actions that could destroy physical evidence, including, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating. Staff is knowledgeable of their responsibilities when responding to reports of sexual abuse.

The auditor also reviewed, with random staff, scripted questions about first responder duties, including: "If you are the first person to be alerted that an inmate has allegedly been the victim of sexual abuse, what is your responsibility in that situation?" All interviews were positive and favorable, and it was clear that staff were knowledgeable about their duties and responsibilities as first responders.

To find compliance, the auditor relied on random staff interviews and a review of the following policies/procedures: Directive 4027A – Sexual Abuse Prevention & Intervention Inmate – on – Inmate; Directive 4028A – Sexual Abuse Prevention & Intervention Staff – on – Inmate; Rochester CF FOM 009 – Coordinated Response Plan to an Incident of Inmate Sexual Abuse; Associate Commissioner Memo – RE: PREA Coordinated Response Plan; Sexual Abuse Response and Containment Checklist; Deputy Commissioner Memo – RE: PREA Coordinated Response Plan; and Sexual Abuse Prevention and Response (SAPR) Lesson Plan.

Standard 115.265: Coordinated response

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.265 (a)

- Has the facility developed a written institutional plan to coordinate actions among staff first responders, medical and mental health practitioners, investigators, and facility leadership taken in response to an incident of sexual abuse? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

Rochester Correctional Facility's Coordinated Response Plan to an Incident of Inmate Sexual abuse was reviewed and the plan coordinates actions taken in response to an incident of sexual abuse among first responders, security, medical and mental health practitioners, Office of Special Investigations, facility administration, and victim advocates. A checklist is utilized to ensure all process steps are completed and notifications are made. The facility specific plan also addresses, SAFE/SANE hospitals, third-party and anonymous reports (documentation, and referral to the Office of Special Investigations), victim advocates, and notifications.

The auditor relied upon random staff interviews, Investigative interviews; and Medical staff interviews as well as the following documentation: Associate Commissioner Memo – RE: PREA Coordinated Response Plan and Sexual Abuse Response and Rochester CF Coordinated Response Plan to an incident of Inmate Sexual Abuse FOM 009 dated 01/16/19. Rochester CF is compliant with this standard.

Standard 115.266: Preservation of ability to protect residents from contact with abusers

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.266 (a)

- Are both the agency and any other governmental entities responsible for collective bargaining on the agency's behalf prohibited from entering into or renewing any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with any residents pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted? Yes No

115.266 (b)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

DOCCS Union Contracts allow the removal of alleged staff sexual abusers from contact with inmates pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted. Also, a review of the collective bargaining agreements was conducted.

The Auditor determined compliance through policy and procedure review; State Union Contracts documentation; Interviews conducted with the Superintendent and Investigative Staff and the following relevant policies/procedures: A Review of DOCCS DIR2110, Employee Discipline-Suspension from Duty during the Continuation of Disciplinary Proceedings; DIR 2114, Functions of the Bureau of Labor Relations; New York state Governor's Office of Employee Relations (GOER); Therefore, RCF is compliant with this standard.

Standard 115.267: Agency protection against retaliation

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.267 (a)

- Has the agency established a policy to protect all residents and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other residents or staff? Yes No
- Has the agency designated which staff members or departments are charged with monitoring retaliation? Yes No

115.267 (b)

- Does the agency employ multiple protection measures, such as housing changes or transfers for resident victims or abusers, removal of alleged staff or resident abusers from contact with victims, and emotional support services for residents or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations? Yes No

115.267 (c)

- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of residents or staff who reported the sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor the conduct and treatment of residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Act promptly to remedy any such retaliation? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor any resident disciplinary reports? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor resident housing changes? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor resident program changes? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor negative performance reviews of staff? Yes No
- Except in instances where the agency determines that a report of sexual abuse is unfounded, for at least 90 days following a report of sexual abuse, does the agency: Monitor reassignments of staff? Yes No
- Does the agency continue such monitoring beyond 90 days if the initial monitoring indicates a continuing need? Yes No

115.267 (d)

- In the case of residents, does such monitoring also include periodic status checks?
 Yes No

115.267 (e)

- If any other individual who cooperates with an investigation expresses a fear of retaliation, does the agency take appropriate measures to protect that individual against retaliation?
 Yes No

115.267 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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DOCCS has policies and processes in place to protect inmates and staff that report sexual abuse and harassment. The PREA Compliance Manager is responsible for monitoring retaliation at Rochester CF. In the past 12 months, there have been zero (0) number of incidents of retaliation. Those that report are monitored for at least (120) days. The PCM monitoring responsibilities includes any inmate disciplinary reports, housing, program changes, negative performance reviews, or reassignments of staff. DOCCS policy allows the monitoring period to be continued as needed. Monitoring continues upon transfer to another facility. Retaliation is monitored at a minimum, 30, 60, 90 and 120 days and longer if necessary. A retaliation monitoring form details this 30-day intermittent review with a conclusion allowing for the completion of monitoring, the termination of monitoring or to continue monitoring. The agency/facility is required to act promptly to remedy any retaliation.

The auditor relied upon interviews with the PREA Compliance Manager/PREA Point Person, Superintendent, and the following policies/procedures and other supporting documentation: Employee Manual – 2.19; Associate

Commissioner Memo – RE: Agency Protection against Retaliation, 115.67/267, and Retaliation Monitoring Form-115.67/115.67A; Retaliation Monitoring Form 115.67. Rochester has not had any retaliation monitoring; therefore, RCF is compliant with this standard.

INVESTIGATIONS

Standard 115.271: Criminal and administrative agency investigations

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.271 (a)

- When the agency conducts its own investigations into allegations of sexual abuse and sexual harassment, does it do so promptly, thoroughly, and objectively? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.221(a).) Yes No NA
- Does the agency conduct such investigations for all allegations, including third party and anonymous reports? (N/A if the agency/facility is not responsible for conducting any form of criminal OR administrative sexual abuse investigations. See 115.221(a).) Yes No NA

115.271 (b)

- Where sexual abuse is alleged, does the agency use investigators who have received specialized training in sexual abuse investigations as required by 115.234? Yes No

115.271 (c)

- Do investigators gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data? Yes No
- Do investigators interview alleged victims, suspected perpetrators, and witnesses? Yes No
- Do investigators review prior reports and complaints of sexual abuse involving the suspected perpetrator? Yes No

115.271 (d)

- When the quality of evidence appears to support criminal prosecution, does the agency conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution? Yes No

115.271 (e)

- Do agency investigators assess the credibility of an alleged victim, suspect, or witness on an individual basis and not on the basis of that individual's status as resident or staff? Yes No
- Does the agency investigate allegations of sexual abuse without requiring a resident who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding? Yes No

115.271 (f)

- Do administrative investigations include an effort to determine whether staff actions or failures to act contributed to the abuse? Yes No
- Are administrative investigations documented in written reports that include a description of the physical evidence and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings? Yes No

115.271 (g)

- Are criminal investigations documented in a written report that contains a thorough description of the physical, testimonial, and documentary evidence and attaches copies of all documentary evidence where feasible? Yes No

115.271 (h)

- Are all substantiated allegations of conduct that appears to be criminal referred for prosecution? Yes No

115.271 (i)

- Does the agency retain all written reports referenced in 115.271(f) and (g) for as long as the alleged abuser is incarcerated or employed by the agency, plus five years? Yes No

115.271 (j)

- Does the agency ensure that the departure of an alleged abuser or victim from the employment or control of the agency does not provide a basis for terminating an investigation? Yes No

115.271 (k)

- Auditor is not required to audit this provision.

115.271 (l)

- When an outside entity investigates sexual abuse, does the facility cooperate with outside investigators and endeavor to remain informed about the progress of the investigation? (N/A if an outside agency does not conduct administrative or criminal sexual abuse investigations. See 115.221(a).) Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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The Office of Special Investigations (OSI), Sex Crimes Unit in the NYDOCCS conducts investigations as outlined in the PREA standards. The Investigators continually receive specialized training in sexual abuse investigations pursuant to standard 115.234. Interviews and documentation support that investigations into all allegations of sexual abuse, sexual harassment, and sexual misconduct are done promptly, thoroughly, and objectively to include third party and anonymous reports.

DOCCS policies and procedures outline how the agency shall gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data; shall interview alleged victims, suspected perpetrators, and witnesses; and shall review prior complaints and reports of sexual abuse involving the suspected perpetrator. When evidence appears to support criminal prosecution, the OSI conducts interviews only after consulting with prosecutors to ensure the interviews will not hinder subsequent criminal prosecution. By agency policy, every allegation of sexual abuse and sexual harassment is investigated, and the agency will validate the credibility of an alleged victim, suspect, or witness is assessed on an individual basis and shall not be determined by the person's status as inmate or staff.

DOCCS does not require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation. Investigations continue even if the inmate is released or the employee is no longer employed at the facility. Administrative investigations are very well written, and documentation of the process is very thorough. Reports are maintained for a minimum of 7 years. An electronic copy of the reports with the other critical documents (medical, depositions) are

permanently maintained. Interviews with two OSI investigators took place on October 22, 2019 at Rochester Correctional Facility and they were very impressive. They were very knowledgeable about PREA and their responsibilities when they receive an allegation.

The Auditor reviewed the following documentation to determine the findings: DOCCS DIR 0700 – Office of Special Investigations; Chapter 5, Sex Crimes Division (confidential procedures); Chapter 11 Case Tracking and Investigative Reports (Confidential); Rochester Correctional facility had (0) reports of sexual abuse, sexual harassment or sexual misconduct in the past 12 months. The Auditor determined compliance through review of all above mentioned documentation, policies and procedures, training logs, interviews with two OSI, Sex Crimes Investigators and reviews of investigative case files from Groveland CF since none have occurred at RCF in this audit period.

Standard 115.272: Evidentiary standard for administrative investigations

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.272 (a)

- Is it true that the agency does not impose a standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated?
 Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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OSI Manual, Chapter 5, Sex Crimes Division (confidential procedures); PowerPoint Presentation Excerpt: PREA Specialized Training Investigations – 8/15/19 outlines how the agency shall impose no standard higher than a preponderance of the evidence in determining whether allegations of sexual abuse or sexual harassment are substantiated.

The Auditor determined compliance through review of policy and procedures; review of investigative case files; additional supporting documentation and training logs; Chapter 5, Sex Crimes Division (confidential procedures); Interview conducted with DOCCS OSI Investigators with the Sex Crimes Division at Rochester CF on October 22, 2019. Rochester CF has had (0) sexual abuse, harassment, misconduct cases in the last 12 months.

Standard 115.273: Reporting to residents

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.273 (a)

- Following an investigation into a resident's allegation that he or she suffered sexual abuse in an agency facility, does the agency inform the resident as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded? Yes No

115.273 (b)

- If the agency did not conduct the investigation into a resident's allegation of sexual abuse in the agency's facility, does the agency request the relevant information from the investigative agency in order to inform the resident? (N/A if the agency/facility is responsible for conducting administrative and criminal investigations.) Yes No NA

115.273 (c)

- Following a resident's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The staff member is no longer posted within the resident's unit? Yes No
- Following a resident's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The staff member is no longer employed at the facility? Yes No
- Following a resident's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The agency learns that the staff member has been indicted on a charge related to sexual abuse in the facility? Yes No
- Following a resident's allegation that a staff member has committed sexual abuse against the resident, unless the agency has determined that the allegation is unfounded, or unless the resident has been released from custody, does the agency subsequently inform the resident whenever: The agency learns that the staff member has been convicted on a charge related to sexual abuse within the facility? Yes No

115.273 (d)

- Following a resident's allegation that he or she has been sexually abused by another resident, does the agency subsequently inform the alleged victim whenever: The agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility?
 Yes No
- Following a resident's allegation that he or she has been sexually abused by another resident, does the agency subsequently inform the alleged victim whenever: The agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility?
 Yes No

115.273 (e)

- Does the agency document all such notifications or attempted notifications? Yes No

115.273 (f)

- Auditor is not required to audit this provision.

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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DOCCS Office of Special Investigations (OSI) has a process that notifies the inmate once the investigation has been closed out which indicates if the allegation has been substantiated, unsubstantiated or unfounded. The OSI Investigator notifies the inmate directly in cases of substantiated cases and it is recorded in the case file. Investigations that are unsubstantiated or unfounded are sent to the inmate's facility Superintendent and provided to the inmate in person or via the legal mail process.

Rochester CF has had zero notifications in the last 12 months. The Auditor reviewed the following materials to determine compliance and conducted interviews with the Investigative Staff and the PREA Compliance

Manager/PREA Point Person: Office of Special Investigations Chief – Memo RE: Notification of Investigative Determination dated 5/17/18; and Chapter 5, Sex Crimes Division (confidential procedures). An example of a notification to an inmate was provided to the auditor; however, it was from another facility since RCF had none.

DISCIPLINE

Standard 115.276: Disciplinary sanctions for staff

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.276 (a)

- Are staff subject to disciplinary sanctions up to and including termination for violating agency sexual abuse or sexual harassment policies? Yes No

115.276 (b)

- Is termination the presumptive disciplinary sanction for staff who have engaged in sexual abuse? Yes No

115.276 (c)

- Are disciplinary sanctions for violations of agency policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories? Yes No

115.276 (d)

- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Law enforcement agencies unless the activity was clearly not criminal? Yes No
- Are all terminations for violations of agency sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, reported to: Relevant licensing bodies? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

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DOCCS policy addresses disciplinary sanctions of employees up to removal for PREA related issues. The employee manual provided to all employees explains the disciplinary process to them. Rochester CF has had no incidents of employee suspension or termination for issues of sexual abuse or sexual harassment in the past year. Staff interviews revealed an awareness of the departments zero tolerance policy as it pertains to sexual abuse and sexual harassment.

The auditor reviewed the following and conducted interviews with random staff, PREA Compliance Manager, and the OSI Investigators: Review of Chapter 32, Reporting of Misconduct to Outside Agencies (confidential procedures); Directive 4028A – Sexual Abuse Prevention & Intervention Staff – on – Inmate; Directive 2110 – Employee Discipline – Suspension from Duty During the Continuation of Disciplinary Proceedings; Directive 2111, Report of Employee Misconduct; and the Employee Manual.

Standard 115.277: Corrective action for contractors and volunteers

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.277 (a)

- Is any contractor or volunteer who engages in sexual abuse prohibited from contact with residents? Yes No
- Is any contractor or volunteer who engages in sexual abuse reported to: Law enforcement agencies unless the activity was clearly not criminal? Yes No
- Is any contractor or volunteer who engages in sexual abuse reported to: Relevant licensing bodies? Yes No

115.277 (b)

- In the case of any other violation of agency sexual abuse or sexual harassment policies by a contractor or volunteer, does the facility take appropriate remedial measures, and consider whether to prohibit further contact with residents? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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NYDOCCS has a zero-tolerance policy regarding sexual abuse and sexual harassment of inmates by volunteers and contractors. The policy outlines criminal actions taken if a volunteer/contractor sexually abuses or participates in sexual harassment of an inmate. Rochester CF has had no incidents of a volunteer/contractor engaging in sexual abuse or harassment of an inmate in the past year. Rochester CF did not have any volunteers available on site for interview; however, I did interview a volunteer via phone on October 22, 2019 and she was well informed about PREA.

The auditor relied on the following documentation to find compliance along with the interview of a volunteer, the Imam and the PREA Compliance Manager: Volunteer and Contractor Acknowledgments of Orientation or PREA; Directive 4750 – Volunteer Service Program; Directive 2605 – Sexual Harassment in the Workplace; OSI Chapter 32 - Reporting of Misconduct to Outside Agencies and Memo dated 09/04/18 reminding staff/contractors/volunteers of zero tolerance.

Standard 115.278: Interventions and disciplinary sanctions for residents

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.278 (a)

- Following an administrative finding that a resident engaged in resident-on-resident sexual abuse, or following a criminal finding of guilt for resident-on-resident sexual abuse, are residents subject to disciplinary sanctions pursuant to a formal disciplinary process? Yes No

115.278 (b)

- Are sanctions commensurate with the nature and circumstances of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories? Yes No

115.278 (c)

- When determining what types of sanction, if any, should be imposed, does the disciplinary process consider whether a resident's mental disabilities or mental illness contributed to his or her behavior? Yes No

115.278 (d)

- If the facility offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the abuse, does the facility consider whether to require the offending resident to participate in such interventions as a condition of access to programming and other benefits? Yes No

115.278 (e)

- Does the agency discipline a resident for sexual contact with staff only upon a finding that the staff member did not consent to such contact? Yes No

115.278 (f)

- For the purpose of disciplinary action does a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred NOT constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation? Yes No

115.278 (g)

- If the agency prohibits all sexual activity between residents, does the agency always refrain from considering non-coercive sexual activity between residents to be sexual abuse? (N/A if the agency does not prohibit all sexual activity between residents.) Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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DOCCS policy outlines that disciplinary sanctions may be imposed on inmates who engage in sexual abuse and harassment. Inmates can be subject to discipline internally for inmate on inmate sexual abuse. Inmates are not disciplined for sexual relations with staff unless it is determined it was without staff consent. There have been no administrative or criminal findings, inmate/inmate sexual abuse or staff/inmate sexual abuse at Rochester CF. Rochester does offer therapy, counseling, and/or any other interventions as outlined in the Sex Offender Counseling and Treatment Program Guide. The agency also prohibits all sexual activity between inmates as outlined in policies/procedures.

The auditor determined compliance based on random staff and inmate interviews and review of the following documentation: Directive 4401 – Guidance and Counseling Services; Directive 4027A – Sexual Abuse Prevention & Intervention Inmate – on – Inmate; Directive 4028A – Sexual Abuse Prevention & Intervention Staff – on – Inmate; Directive 4932 – Standards Behavior & Allowances; Sex Offender Counseling and Treatment Program Guidelines and Hearing Officer Standards of Inmate Behavior and Confinement Sanctions Guidelines.

MEDICAL AND MENTAL CARE

Standard 115.282: Access to emergency medical and mental health services

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.282 (a)

- Do resident victims of sexual abuse receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment? Yes No

115.282 (b)

- If no qualified medical or mental health practitioners are on duty at the time a report of recent sexual abuse is made, do security staff first responders take preliminary steps to protect the victim pursuant to § 115.262? Yes No
- Do security staff first responders immediately notify the appropriate medical and mental health practitioners? Yes No

115.282 (c)

- Are resident victims of sexual abuse offered timely information about and timely access to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate? Yes No

115.282 (d)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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Rochester CF inmates receive timely, unimpeded access to emergency medical treatment and crisis intervention services. This includes inmate victims of sexual abuse. Inmates of sexual assault are provided treatment which includes outside hospital services without financial responsibility. The nature and scope of the services offered to the inmate population are determined by the medical/mental health practitioners at Rochester CF according to their professional judgment. SAFE/SANE hospitals are identified by the Health Services Policy Manual. Rochester CF has a policy/protocol in place to transport a victim of sexual abuse to an outside SAFE/SANE hospital for medical examination (Strong Memorial Hospital), if required. Rochester CF has processes to provide emergency prophylactic medications if deemed appropriate. Rochester CF had no incidents that required transport to a SAFE/SANE hospital in the past 12 months.

The auditor was able to find compliance by conducting interviews with medical staff, PREA Compliance Manager, random staff interviews and the following documentation: Directive 4027B – Sexual Abuse Reporting & Investigation Inmate – on – Inmate; Directive 4028B – Sexual Abuse Reporting & Investigation Staff – on – Inmate; HSPM 1.60 - Sexual Assault – SAFE/SANE Hospitals; Rochester CF FOM 009 – Coordinated Response Plan to an Incident of Inmate Sexual Abuse.

Standard 115.283: Ongoing medical and mental health care for sexual abuse victims and abusers

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.283 (a)

- Does the facility offer medical and mental health evaluation and, as appropriate, treatment to all residents who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility?
 Yes No

115.283 (b)

- Does the evaluation and treatment of such victims include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody? Yes No

115.283 (c)

- Does the facility provide such victims with medical and mental health services consistent with the community level of care? Yes No

115.283 (d)

- Are resident victims of sexually abusive vaginal penetration while incarcerated offered pregnancy tests? (N/A if “all-male” facility. *Note: in “all-male” facilities, there may be residents who identify as transgender men who may have female genitalia. Auditors should be sure to know whether such individuals may be in the population and whether this provision may apply in specific circumstances.*) Yes No NA

115.283 (e)

- If pregnancy results from the conduct described in paragraph § 115.283(d), do such victims receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services? (N/A if “all-male” facility. *Note: in “all-male” facilities, there may be residents who identify as transgender men who may have female genitalia. Auditors should be sure to know whether such individuals may be in the population and whether this provision may apply in specific circumstances.*) Yes No NA

115.283 (f)

- Are resident victims of sexual abuse while incarcerated offered tests for sexually transmitted infections as medically appropriate? Yes No

115.283 (g)

- Are treatment services provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident?
 Yes No

115.283 (h)

- Does the facility attempt to conduct a mental health evaluation of all known resident-on-resident abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

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NYDOCCS has protocols in place to provide ongoing medical examination of inmates who claim sexual abuse. Medical staff interviewed were knowledgeable in the emergency protocol to follow with sexual abuse victims. The agency/facility offers medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility. The Office of Mental Health, Memorandum of Understanding states that those identified as victims shall receive, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care, following the transfer to or placement in, other facilities, or their release from custody. Further, the facility shall provide victims with mental health services, consistent with the community level of care by scheduling appointments with OMH. Individual counseling is offered to inmates who request on going treatment related to sexual abuse or being a perpetrator of sexual abuse.

The auditor relied upon interviews with the Medical Staff, PREA Compliance Manager, Random Staff/Inmate Interviews and the following supporting documentation provided with the PAQ: HSPM 1.60 - Sexual Assault; HSPM 1.12B – Inmate Bloodborne Pathogens Significant Exposure; HSPM 1.44 – Health Screening of Inmates; and OMH MOU. Rochester CF is compliant with this standard.

DATA COLLECTION AND REVIEW

Standard 115.286: Sexual abuse incident reviews

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.286 (a)

- Does the facility conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded? Yes No

115.286 (b)

- Does such review ordinarily occur within 30 days of the conclusion of the investigation?
 Yes No

115.286 (c)

- Does the review team include upper-level management officials, with input from line supervisors, investigators, and medical or mental health practitioners? Yes No

115.286 (d)

- Does the review team: Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse? Yes No
- Does the review team: Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; gang affiliation; or other group dynamics at the facility? Yes No
- Does the review team: Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse? Yes No
- Does the review team: Assess the adequacy of staffing levels in that area during different shifts?
 Yes No
- Does the review team: Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff? Yes No
- Does the review team: Prepare a report of its findings, including but not necessarily limited to determinations made pursuant to §§ 115.286(d)(1) - (d)(5), and any recommendations for improvement and submit such report to the facility head and PREA compliance manager?
 Yes No

115.286 (e)

- Does the facility implement the recommendations for improvement, or document its reasons for not doing so? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

DOCCS agency policy states the facility conducts a Sexual Abuse Incident Review at the conclusion of every criminal or administrative sexual abuse investigation unless the allegation has been determined to be unfounded. Further, it is directed that an incident review will take place within 30 days of the conclusion of the abuse investigation, and that the Incident Review Team includes an upper-level management official and allowing input from line supervisors, investigators, and medical and mental health practitioners. The memorandum above also stipulates that the facility prepares a report of findings, recommendations for improvement and submits such a report to the PREA Compliance Manager. Rochester Correctional Facility, in the past 12 months, has had no criminal and/or administrative investigation of alleged sexual abuse. Therefore, no review had taken place as of the dates of this audit. The incident review team reviews the circumstances of the incident; the inmates and staff involved, whether actions taken were consistent with agency policies and procedures, if allegation or investigation indicates a need for policy changes and whether the incident or allegation were motivated by race, ethnicity, gender identity, lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status, gang affliction. The report is completed and submitted to the Superintendent and Facility PREA Compliance Manager.

The auditor finds compliance based on interviews with the Superintendent, PREA Compliance Manager and PREA Point Person and the following documentation submitted with the PAQ: A memorandum from the Agency Deputy Commissioner and the Associate Commissioner/Agency PREA Coordinator referencing PREA Procedural Enhancements outlines procedures for compliance with the standard on Sexual Abuse Incident Reviews.

Standard 115.287: Data collection

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.287 (a)

- Does the agency collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions? Yes No

115.287 (b)

- Does the agency aggregate the incident-based sexual abuse data at least annually?
 Yes No

115.287 (c)

- Does the incident-based data include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice? Yes No

115.287 (d)

- Does the agency maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews?
 Yes No

115.287 (e)

- Does the agency also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its residents? (N/A if agency does not contract for the confinement of its residents.) Yes No NA

115.287 (f)

- Does the agency, upon request, provide all such data from the previous calendar year to the Department of Justice no later than June 30? (N/A if DOJ has not requested agency data.)
 Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

NYDOCCS Office of Program Planning Research and Evaluation Policy for PREA Data Collection, Review, Retention and Publication Manual outlines basic procedures for data collection of sexual abuse data. The data collected is based on the most recent version of the Survey of Sexual Violence conducted by the Dept. Of Justice. NYSDOCCS reviews and collects the data as needed from all available reports, investigations, and sexual abuse incident reviews. DOCCS provides all data from the previous calendar year to the DOJ upon request. The data for 2017 was submitted to the Bureau of Justice Statistics on January 15, 2019, prior to the deadline for the submission. This includes, but is not limited to Office of Special Investigations, Sex Crime Division (SCD) data, sexual abuse incident review information, unusual incidents, personnel records, confidential security information, inmate records, disciplinary data, and the inmate locator system.

After preliminary review and preparation of all Office of Special Investigations Sex Crimes Division allegations, sexual abuse data is extracted, coded, and prepared for a secondary review with a SCD investigator. A final review team consisting of the Associate Commissioner/PREA Coordinator, the Chief of the Office of Special Investigations, the Deputy Chief of Investigations of the Sex Crimes Division and the PREA Analyst meet annually to review substantiated PREA allegations prior to submission of data to the Bureau of Justice Statistics.

The auditor relied upon an interview with the PREA compliance manager and the following supplied documentation: Office of Program Planning Research and Evaluation; PREA Data Collection, Review, Retention and Publication Manual; Directive 4027B – Sexual Abuse Reporting & Investigation Inmate – on – Inmate; Directive 4028B – Sexual Abuse Reporting & Investigation Staff – on – Inmate; and a confirmation that the data was sent to the DOJ.

Standard 115.288: Data review for corrective action

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.288 (a)

- Does the agency review data collected and aggregated pursuant to § 115.287 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Identifying problem areas? Yes No
- Does the agency review data collected and aggregated pursuant to § 115.287 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Taking corrective action on an ongoing basis?
 Yes No

- Does the agency review data collected and aggregated pursuant to § 115.287 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by: Preparing an annual report of its findings and corrective actions for each facility, as well as the agency as a whole? Yes No

115.288 (b)

- Does the agency's annual report include a comparison of the current year's data and corrective actions with those from prior years and provide an assessment of the agency's progress in addressing sexual abuse Yes No

115.288 (c)

- Is the agency's annual report approved by the agency head and made readily available to the public through its website or, if it does not have one, through other means? Yes No

115.288 (d)

- Does the agency indicate the nature of the material redacted where it redacts specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

NYDOCCS prepares an annual report which includes identification of problem areas, corrective action for each facility, and the agency as a whole. The annual report includes a comparison of the current year's data and corrective actions with prior years and provides an assessment of progress in addressing sexual abuse. Before publishing the annual report, the agency removes all personal identifiers. The annual report is made available to the public through the agency's website. DOCCS Annual Report on Sexual Victimization is available for review on the agency's website. The latest annual report was published December 2018 for the period of 2013-2016.

The auditor reviewed the following documents: Office of Program Planning Research and Evaluation PREA Data Collection, Review, Retention and Publication Manual; NYDOCCS PREA Web Page, www.doocs.ny.gov/PREA/PREAINfo.html; Therefore, Rochester CF/DOCCS is compliant with this standard.

Standard 115.289: Data storage, publication, and destruction

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.289 (a)

- Does the agency ensure that data collected pursuant to § 115.287 are securely retained?
 Yes No

115.289 (b)

- Does the agency make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website or, if it does not have one, through other means? Yes No

115.289 (c)

- Does the agency remove all personal identifiers before making aggregated sexual abuse data publicly available? Yes No

115.289 (d)

- Does the agency maintain sexual abuse data collected pursuant to § 115.287 for at least 10 years after the date of the initial collection, unless Federal, State, or local law requires otherwise?
 Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

The DOCCS PREA Data Collection, Review, Retention, and Publication Manual (revised on 8/18/15) outlines basic procedures for data collection, review, storage and reporting of sexual abuse data and ensures that the incident based information and aggregate data is collected and securely retained for at least ten years after date of initial collection unless Federal, State or local law requires otherwise. The data is retained and secured by OSI and the PREA Analyst. The manual also outlines that the agency will prepare an annual report and that the report include: identification of problem areas, corrective actions for each facility and the agency, a comparison of the current year's data and corrective actions with those from prior years, and provides an assessment of progress in addressing sexual abuse.

Prior to publishing the annual report, the agency removes all personal identifiers. The annual report is made available to the public through the agency's website, www.doccs.ny.gov/PREA/PREAINfo.html, which was reviewed as a part of the audit process.

AUDITING AND CORRECTIVE ACTION

Standard 115.401: Frequency and scope of audits

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.401 (a)

- During the prior three-year audit period, did the agency ensure that each facility operated by the agency, or by a private organization on behalf of the agency, was audited at least once? (*Note: The response here is purely informational. A "no" response does not impact overall compliance with this standard.*) Yes No

115.401 (b)

- Is this the first year of the current audit cycle? (*Note: a "no" response does not impact overall compliance with this standard.*) Yes No
- If this is the second year of the current audit cycle, did the agency ensure that at least one-third of each facility type operated by the agency, or by a private organization on behalf of the agency, was audited during the first year of the current audit cycle? (N/A if this is **not** the *second* year of the current audit cycle.) Yes No NA
- If this is the third year of the current audit cycle, did the agency ensure that at least two-thirds of each facility type operated by the agency, or by a private organization on behalf of the agency, were audited during the first two years of the current audit cycle? (N/A if this is **not** the *third* year of the current audit cycle.) Yes No NA

115.401 (h)

- Did the auditor have access to, and the ability to observe, all areas of the audited facility? Yes No

115.401 (i)

- Was the auditor permitted to request and receive copies of any relevant documents (including electronically stored information)? Yes No

115.401 (m)

- Was the auditor permitted to conduct private interviews with residents? Yes No

115.401 (n)

- Were residents permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel? Yes No

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

The narrative below must include a comprehensive discussion of all the evidence relied upon in making the compliance or non-compliance determination, the auditor's analysis and reasoning, and the auditor's conclusions. This discussion must also include corrective action recommendations where the facility does not meet the standard. These recommendations must be included in the Final Report, accompanied by information on specific corrective actions taken by the facility.

The Auditor reviewed the DOCCS web page at www.doccs.ny.gov/PREA/PREA_Final_Audit_Reports.html, containing the 61 audit reports for PREA audits completed from November 6, 2015 through June 7, 2019 and (5) Community Based Residential Program audits with the most recent being dated June 9, 2019. The Agency began conducting its PREA audits in October 2015 with 12 facilities audited in the first cycle. Second cycle Final Reports include: 23 in year one, 19 in year two, and 12 in year three so far. Four additional Agency run facilities are scheduled for audits this year. The Auditor reviewed the schedule of audits and verified that the NYS DOCCS has, beginning in audit year 3 of cycle 1, ensured that at least one-third of each facility type operated by the Agency was and is scheduled to be audited.

NYS Correction Law section 121 provides that the private ownership or operation of a facility for housing state or local inmates or the private ownership or operation of a facility for the incarceration of other state's inmates is prohibited. Thus, no private prisons are operated on behalf of the Agency. However, New York State Department of Corrections and Community Supervision has entered into agreements with private organizations for 14 Community Based Residential Programs (CBRP) to provide up to 4 months of housing and treatment for selected Parolees. These contracts became effective according to the following schedule: Seven (7) programs on 5/1/17, six (6) programs on 10/01/17, and one (1) program on 7/23/18. In compliance with PREA requirements, these contracts permit monitoring and requires the program to achieve and maintain PREA Compliance and to arrange for PREA Audits on a schedule set in consultation with the New York State Department of Corrections and Community Supervision PREA Coordinator. The CBRP audits began in 2018, with four audits being completed as of date of this report. Information obtained through interview with Associate Commissioner/PREA Coordinator and a review of the NYDOCCS website.

Standard 115.403: Audit contents and findings

All Yes/No Questions Must Be Answered by the Auditor to Complete the Report

115.403 (f)

- The agency has published on its agency website, if it has one, or has otherwise made publicly available. The review period is for prior audits completed during the past three years PRECEDING THIS AGENCY AUDIT. The pendency of any agency appeal pursuant to 28 C.F.R. § 115.405 does not excuse noncompliance with this provision. (N/A if there have been no Final Audit Reports issued in the past three years, or in the case of single facility agencies that there has never been a Final Audit Report issued.) Yes No NA

Auditor Overall Compliance Determination

- Exceeds Standard** (*Substantially exceeds requirement of standards*)
- Meets Standard** (*Substantial compliance; complies in all material ways with the standard for the relevant review period*)
- Does Not Meet Standard** (*Requires Corrective Action*)

Instructions for Overall Compliance Determination Narrative

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The Auditor reviewed the NYDOCCS web page at, www.doccs.ny.gov/PREA/PREA_Final_Audit_Reports.html containing the 67 audit reports for PREA audits completed from November 6, 2015 through September 9, 2019 and (5) operated Community Based Residential Program (CBRP) on behalf of New York State Department of Corrections and Community Supervision, as of last update of June 9, 2019. New York State Department of Corrections and Community Supervision operates 52 State prisons. The Agency began conducting its PREA audits in October 2015 with 12 facilities audited in the first cycle. Second cycle Final Reports include: 23 in year one, 19 in year two, and 11 in year three so far. The CBRP audits began in 2018, with five audits being completed as of date of this report. Final Reports are posted to the Agency website according to the timeline requirement, with the latest reported on June 9, 2019. New York State Department of Corrections and Community Supervision meets the mandate of this standard.

AUDITOR CERTIFICATION

I certify that:

- The contents of this report are accurate to the best of my knowledge.
- No conflict of interest exists with respect to my ability to conduct an audit of the agency under review, and
- I have not included in the final report any personally identifiable information (PII) about any resident or staff member, except where the names of administrative personnel are specifically requested in the report template.

Auditor Instructions:

Type your full name in the text box below for Auditor Signature. This will function as your official electronic signature. Auditors must deliver their final report to the PREA Resource Center as a searchable PDF format to ensure accessibility to people with disabilities. Save this report document into a PDF format prior to submission.¹ Auditors are not permitted to submit audit reports that have been scanned.² See the PREA Auditor Handbook for a full discussion of audit report formatting requirements.

Michelle L. Burrows

November 24, 2019

Auditor Signature

Date

¹ See additional instructions here: <https://support.office.com/en-us/article/Save-or-convert-to-PDF-d85416c5-7d77-4fd6-a216-6f4bf7c7c110>.

² See *PREA Auditor Handbook*, Version 1.0, August 2017; Pages 68-69.